

## **EXHIBIT B**

Exhibits: 14-53

Volume 2, Pages 210-439

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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SHEILA LYONS, DVM and HOMECOMING  
FARM, INC.,

Plaintiffs

v Civil Action No. 1:11-CV-12192

THE AMERICAN COLLEGE OF VETERINARY  
SPORTS MEDICINE AND REHABILITATION,  
INC. and THE AMERICAN VETERINARY  
MEDICAL ASSOCIATION, INC.,

Defendants  
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DEPOSITION OF SHEILA LYONS

Wednesday, January 16, 2013, 10:04 a.m.

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1	46	Handwritten document	411	1	through that ground, if I feel like I have to cover		
2	47	Email	413	2	it.		
3	48	Email	415	3	One other thing I'll ask: I know that		
4	49	Email	418	4	there's been some controversy in this case, as I'm		
5	50	Email	418	5	sure you know, over the authenticity of certain		
6	51	Email	418	6	documents. If I show you a document that it is your		
7	52	Statement of damages	422	7	contention is not authentic, please tell me. It is		
8	53	Statement	423	8	not my intention to trick you into authenticating		
9				9	documents you contend are not authentic. Do you		
10	Exhibits returned to Attorney Dickison			10	understand what I'm telling you?		
11				11	A. Yes.		
12				12	Q. I will try to ask you, but if I forget,		
13				13	please point out to me if I show you a document that		
14				14	purports to be authored by you, that it's your		
15				15	position is not authored by you. All right?		
16				16	A. Yes.		
17				17	Q. I just want to start by asking a couple of		
18				18	followup questions from yesterday. First of all, -		
19				19	what is a farrier?		
20				20	A. A farrier is a person who is skilled and		
21				21	trained in trimming and shoeing and otherwise		
22				22	working with horses' hooves.		
23				23	Q. Now, in some of the documents you've		
24				24	produced -- and I think I'm going to show you one		

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1	P R O C E E D I N G S			1	fairly shortly -- there is a term used		
2	January 16, 2013 10:04 a.m.			2	"paraprofessional." Does a farrier concern a		
3	P R O C E E D I N G S			3	veterinary paraprofessional?		
4	SHEILA LYONS, Previously Sworn			4	A. No, not in my use of that term.		
5	DIRECT EXAMINATION			5	Q. What is a -- I'm sorry. Were you finished		
6	BY MR. KLUFT:			6	with your answer?		
7	Q. Good morning, Dr. Lyons. You've probably			7	A. Yes.		
8	figured out, my name is Dave Kluff, and I represent			8	Q. What is a paraprofessional?		
9	The American College of Veterinary Sports Medicine			9	A. My definition of a paraprofessional would		
10	and Rehabilitation, Inc., and I also represent some			10	be someone who both serves a professional but		
11	of the individuals who are named in the complaint.			11	someone whose professional territory, if it were,		
12	I know that this controversy is over the			12	had some clear definition. So one example of a		
13	name of the organization, and there may be some			13	paraprofessional that I would give would be a		
14	difficulty in using the word "ACVSMR." So what I'll			14	physiotherapist.		
15	try to do is what Mr. Dickison did yesterday, and			15	Q. And what kind of training would a		
16	I'll refer to my client as the college or the			16	physiotherapist have? Would they be a veterinarian?		
17	organizing committee, and I'll refer to the project			17	A. No.		
18	of Homecoming Farm as the ACVSMR project, or I'll			18	Q. Would they have a master's degree of some		
19	just spell it out. Will you understand that, if I			19	sort?		
20	use those terminologies?			20	A. Typically. I believe today they would,		
21	A. Yes.			21	yes.		
22	Q. I'm going to try not to cover the same			22	Q. And in some of the documents, specifically		
23	ground that Mark covered, but you'll forgive me if I			23	documents that were marked as fundraising documents		
24	do. I apologize. And I will try to move fast			24	of Homecoming Farm and/or the ACVSMR project, I saw		

<p style="text-align: right;">219</p> <p>1 requests for grants for paraprofessional 2 certifications. Can you explain what 3 paraprofessionals the Homecoming Farm works with? 4 A. Well, the paraprofessional groups that we 5 have structured our long-term plan to offer 6 certification in would be physiotherapists, and 7 there would be a new category of farrier, and that 8 would be a farrier who has a college degree. And we 9 are working with or have developed guidelines for a 10 master's degree in farrier science. 11 Q. Were you finished? 12 A. Yes. 13 Q. And is that a master's degree that it is 14 your plan for the ACVSMR project to offer? 15 A. No. That would be a master's degree that 16 would be offered by other institutions but where a 17 good deal of the training that would contribute to 18 that educational project would take place through 19 the ACVSMR. 20 Q. And do you currently have -- and when I say 21 you, I mean Homecoming Farm. Does Homecoming Farm 22 currently have any certification programs that are 23 already in place and operating? 24 A. We don't have any certification programs</p>	<p style="text-align: right;">221</p> <p>1 finish on a certain date. 2 Q. I see. So the programs that you have in 3 place now are the ones that you talked about 4 yesterday that you offer not on campus but at other 5 people's facilities? 6 A. Yes, that's -- 7 Q. And has anybody actually received a 8 certification from the Homecoming Farm yet? 9 A. Yes. 10 Q. And how many people have received that and 11 in -- what were they certified in? 12 A. I don't have the numbers available to me, 13 but they're small. And the certifications that 14 we've offered so far are, I believe, all in equine 15 podiatry. 16 Q. Now, equine podiatry, are those 17 veterinarians that have those certifications? 18 A. Yes. 19 Q. And is it less than ten, more than ten? 20 A. I'd say less than ten. 21 Q. Now, yesterday Mr. Dickson asked you about 22 a couple of events that you talked about, and I'm 23 going to -- so that I can recall your memory to 24 them, I'm going to summarize them. But if I</p>
<p style="text-align: right;">220</p> <p>1 today that are offering credentials, and it's only 2 because our funding hasn't supported it -- which is 3 not at that point of maturity. We need our campus 4 before we can do that. 5 Q. And do I take it from your answer that 6 Homecoming Farm has never to date offered a 7 certification program that was -- in other words, 8 that was ready for students to enter? 9 A. Not in open admission. 10 Q. And have you done any kind of 11 certification? I'm not sure I understand the term 12 "open admission." 13 A. Well, in other words, what Homecoming plans 14 to do through its ACVSMR project is to have a main 15 campus where we can continuously run courses for 16 physiotherapists, for equine health care managers -- 17 that would be another certificate that we intend to 18 offer -- for farriers and -- 19 Well, we'll leave it at that for now. 20 And so we are putting our energy and our focus 21 toward creating that main campus. And then the 22 certification programs will be able to -- when I say 23 open admission, there will be courses that begin on 24 a certain date, take place at our campus, and then</p>	<p style="text-align: right;">222</p> <p>1 summarize them incorrectly, just let me know. I'm 2 not trying to put words in your mouth. 3 He asked you about a lecture -- you 4 talked about a lecture you gave in South Carolina. 5 A. Yes. 6 Q. Do you recall that? And it was at a place 7 that had the word "saddle" in the same, I think? 8 A. Well, it was -- it wasn't at a place that 9 had the word "saddle" in it. 10 Q. It was offered by an organization that had 11 the word "saddle" in it? 12 A. Yes. 13 Q. What was the facility? Was the facility 14 owned by that -- 15 A. No. 16 Q. Was the facility a private -- 17 A. Yes. 18 Q. -- residence or a private farm? 19 A. Private farm. 20 Q. And you mentioned when you talked about the 21 attendance -- and again, correct me if I'm wrong -- 22 that this was not attended by veterinarians, but 23 that one veterinarian stopped by while you were 24 there because the horse had gotten better. Do you</p>

<p style="text-align: right;">223</p> <p>1 recall that?</p> <p>2 A. Yes.</p> <p>3 Q. I was confused by that statement, because</p> <p>4 then you went on to say, well, you also give</p> <p>5 clinical seminars, I think --</p> <p>6 A. Yes.</p> <p>7 Q. -- where there's actually a horse involved,</p> <p>8 whereas the lectures, there's no horse involved. So</p> <p>9 I guess I'm asking was there a horse involved in</p> <p>10 that lecture, or was he coming by because of some</p> <p>11 unrepresented event?</p> <p>12 A. It was a farrier clinic, so there was a</p> <p>13 horse involved for the teaching of farriers. And</p> <p>14 since farrier work is essential to the work of</p> <p>15 veterinary sports medicine and rehabilitation and</p> <p>16 the farriers very often are carrying out</p> <p>17 prescriptions, if you will, from veterinarians, then</p> <p>18 teaching the farriers these skills is directly</p> <p>19 related to the development of the specialty of</p> <p>20 veterinary sports medicine and rehabilitation. And</p> <p>21 very often, when farriers understand better how to</p> <p>22 trim a horse's hoof, in order to normalize it, which</p> <p>23 normalizes the biomechanics all over the body, even</p> <p>24 though that's not the practice of medicine and it</p>	<p style="text-align: right;">225</p> <p>1 saying that your client produced almost 15,000</p> <p>2 documents for me to review in the last -- I only got</p> <p>3 them in the last few days. Obviously we had to make</p> <p>4 copies of them. So some of what I recall and would</p> <p>5 be, I believe, responsive to this question, would</p> <p>6 lie in those documents. So I can remember a few</p> <p>7 things, but I just want to be clear that until I</p> <p>8 have the time to really go through those documents</p> <p>9 carefully, that this may be an incomplete answer.</p> <p>10 I'd like more time to study that.</p> <p>11 Q. Sure. Why don't you tell me what you know</p> <p>12 now.</p> <p>13 A. Well, certainly let's go to something</p> <p>14 that -- I believe it was in the document production,</p> <p>15 but I don't recall this. It would be the press</p> <p>16 release that your client put out. Now, in it they</p> <p>17 make a clear distinction that they're partnered with</p> <p>18 the AVMA. However, this was a press-release put out</p> <p>19 by your client in the name that infringes on my</p> <p>20 trademark. And I don't have it in front of me, but</p> <p>21 I remember one -- I don't know if it was one of</p> <p>22 their bullet points or whether this was conveyed</p> <p>23 over a few.</p> <p>24 But they describe me to this wide</p>
<p style="text-align: right;">224</p> <p>1 involves something that a tradesperson does, it has</p> <p>2 such a direct impact on the horse's wellbeing and</p> <p>3 the horse's ability to recover from things that the</p> <p>4 veterinarian may be dealing with that very often</p> <p>5 veterinarians attend the seminars, the clinical</p> <p>6 seminars that we give even for farriers.</p> <p>7 Q. Now, Mr. Dickison also asked you about</p> <p>8 instances where you felt that you had lost business</p> <p>9 or had reputational damage because of the actions of</p> <p>10 the AVMA, his client. I know he asked you about a</p> <p>11 lot of --</p> <p>12 And I'm going to short-circuit a bunch</p> <p>13 of questions by asking you: Is it fair to say that</p> <p>14 the -- that you also claim that same harm caused by</p> <p>15 my client?</p> <p>16 A. Yes.</p> <p>17 Q. Is there any additional harm caused by my</p> <p>18 client in addition to what you were thinking about</p> <p>19 when you were answering Mr. Dickison's questions</p> <p>20 yesterday that is specific to my client and has</p> <p>21 nothing to do with the AVMA?</p> <p>22 A. Yes.</p> <p>23 Q. And can you tell me what that is?</p> <p>24 A. If you don't mind, I'll preface this by</p>	<p style="text-align: right;">226</p> <p>1 audience that they have submitted this press release</p> <p>2 to as just a private or a lone -- forgive me, I</p> <p>3 don't remember the word.</p> <p>4 Q. I think the words were "individual</p> <p>5 veterinary"?</p> <p>6 A. If that's correct.</p> <p>7 Q. If I'm correct, and I don't have it in</p> <p>8 front of me, either, but that's my memory.</p> <p>9 A. But it's relating to that document -- that</p> <p>10 I'm simply an individual veterinary practicing in</p> <p>11 and around or near Massachusetts.</p> <p>12 Now, first of all, that's defamatory in</p> <p>13 a number of ways. One is, it suggests that I'm</p> <p>14 violating the law in Massachusetts, because I am not</p> <p>15 licensed to practice here, and I don't, unless I'm</p> <p>16 working as a consultant through an attending</p> <p>17 veterinary. So that's very damaging to me as a</p> <p>18 professional.</p> <p>19 The other thing is that anyone in the</p> <p>20 horse industry, which is the -- you know, where my</p> <p>21 commercial business takes place knows -- if I simply</p> <p>22 said to them there's a veterinary in Massachusetts</p> <p>23 that, you know, you might want to hire for your</p> <p>24 horse that's going into the Kentucky Derby, you</p>

<p style="text-align: right;">227</p> <p>1 know, maybe they won't completely reject it. But, 2 you know, that doesn't suggest someone who has 3 expertise in sports medicine and rehabilitation. 4 That industry really just doesn't take place here. 5 So if after 30-some-odd -- or nearly 30 6 years of practice I limited my practice to 7 Massachusetts and the neighboring areas, then that's 8 sending a very clear, and I believe deliberate, 9 message that is simply untrue. 10 Also in that press release the -- 11 Q. If you want, what we could do is move on, 12 and if something comes to mind later -- I'm happy to 13 wait. We can state for the record you're not 14 complete with your answer, if you want to -- 15 MR. LYONS: Let's let her finish her 16 answer. 17 MS. KLIEMAN: Do you have the press 18 release handy? 19 MR. KLUFT: I do plan to show it to her 20 later. 21 You know what, I may not have it, 22 actually, now that I think about it. We did some 23 stuff -- 24 MR. DICKISON: I might actually --</p>	<p style="text-align: right;">229</p> <p>1 everything that he said. But he moved quickly from 2 topic to topic, and he suggested that there were 3 accusations that I had illegally practiced and that 4 it was corroborated by owners and veterinarians, and 5 he said this in front of the committee. Now, of 6 course, they had already met in secret, without me, 7 so -- but I heard him say these things in this room, 8 and they were false. So that was defamatory. 9 And then, of course, the people in that 10 room dispersed, and the stories were spread. 11 Q. Are you finished with your answer for now? 12 A. For now. 13 Q. With the preface that you made earlier. 14 A. Thank you, yes. 15 Q. Yesterday you mentioned a gentleman named 16 Michael Savoldi. 17 A. Yes. 18 Q. Is Michael Savoldi a veterinarian? 19 A. No. 20 Q. What is his profession? I know you said he 21 was a professor at a college. What was he a 22 professor of? 23 A. Of farrier science. 24 Q. And do you know what his degree is in?</p>
<p style="text-align: right;">228</p> <p>1 Q. Why don't you finish your answer. 2 MR. LYONS: Finish your answer, and when 3 you're done, let him know. 4 A. Why don't I move on to a couple of other 5 examples of defamation. 6 Dr. Gillette has been repeating the 7 falsehood that I have misrepresented my credentials. 8 He has repeated that to the AVMA. He's repeated 9 that to veterinarians. And at one point in -- I 10 believe it was in the AVMA's production of documents 11 to me, even the AVMA warned Dr. Gillette that 12 continuing to make this statement about me is 13 considered defamatory. Dr. McIlwraith -- 14 Q. Is this Wayne McIlwraith you're talking 15 about? 16 A. Yes. I'm going to have to go back through 17 the documents to refresh my memory about what was 18 produced with respect to Dr. McIlwraith. I'm sorry; 19 it came and it went. 20 Q. That's all right. 21 A. Oh, and in the meeting, in this 22 Philadelphia meeting, when Dr. Gillette suggests 23 that I have harmed horses in the course of offering 24 the services on them -- and I don't remember</p>	<p style="text-align: right;">230</p> <p>1 A. I do not. 2 Q. How long has he been associated with 3 Homecoming Farm? 4 A. I would have to try somehow to work that 5 out, by looking at maybe research records and 6 things. And that's how we began our relationship. 7 But to the best of my recollection, if you can 8 accept a pretty general range, I would say between 9 1995 and '98, somewhere in there. Maybe it was 10 earlier. It could have been '92 to '98. You know, 11 I'm sorry. 12 Q. That's all right. Now, was he involved at 13 all in the -- in the college or the organizing 14 committee? 15 A. No. 16 Q. And was he at the meeting in Philadelphia 17 in 2004? 18 A. No. 19 Q. And he teaches ACVSMR project programs; is 20 that correct? 21 A. Yes. 22 Q. And where does he teach those? 23 A. Currently at his equine research center in 24 Shandon, California.</p>

<p style="text-align: right;">231</p> <p>1 Q. And does he teach those independently or 2 only when you're in attendance? 3 A. Oh, no, I'm not there most of the time. So 4 Michael Savoldi will take our students for 5 experience doing dissections and then through his 6 farrier contacts, create opportunities for those 7 students to go out into the field at equine rescues 8 and.... 9 Q. And are all of his students also students 10 of the ACVSMR project, or are only some of them 11 students of the ACVSMR project? 12 A. Michael does a lot of teaching 13 independently. He's a very -- he gives lectures all 14 over the world every year, at veterinary 15 conferences, and farrier conferences. So he does 16 teaching himself, and he accepts our students. 17 Q. So is it fair to say some of his students 18 are your students and some of his students are not 19 your students? 20 A. That's correct. 21 Q. Who is Jane Hutton? 22 A. Jane Hutton is an equine physiotherapist, 23 originally from England, now based in Hong Kong. 24 Q. Is an equine physiotherapist a veterinary?</p>	<p style="text-align: right;">233</p> <p>1 Q. The first English organization I've ever 2 heard without "royal" in it. Is that a government 3 organization? 4 A. I don't know. There is a board, so they 5 must be licensed. 6 Q. What was Jane Hutton's -- what is Jane 7 Hutton's involvement with the ACVSMR project? 8 A. Jane Hutton has acted as an adviser first 9 to help us to structure our educational programs for 10 veterinarians so that they can learn what licensed 11 physiotherapists in other countries are able to 12 contribute. She acts as an adviser for our 13 physiotherapy programs, and she has done teaching as 14 well for us. 15 Q. Is it one of the goals of Homecoming Farm 16 to create a professional certification board in the 17 United States similar to the one you described in 18 England? 19 A. Well, it's a goal of Homecoming Farm to 20 certainly have licensing for physiotherapists who 21 work with animals, veterinary physiotherapy. And I 22 would certainly -- we would like to have that 23 modeled after the British program -- again, 24 following the same high standards of human medicine.</p>
<p style="text-align: right;">232</p> <p>1 A. No. 2 Q. And just from my ignorance, just to clear 3 up my ignorance, in England and Hong Kong, is it 4 basically the same structure for the treatment of 5 animals? They have veterinarians and then they have 6 paraprofessionals working with them? 7 A. I would disagree with your 8 characterization. 9 Q. Which was based on nothing but my 10 ignorance, as I said. So please explain to me now 11 it works over in England. 12 A. Well, how it works over in England is 13 actually quite different from how it works at this 14 time in America. 15 In England, physiotherapists are 16 licensed and certified by professional boards, just 17 as they are in this country in human medicine. 18 However, in England they have additional licensing 19 for physiotherapists who are already licensed in 20 human medicine and then they go on, do additional 21 training in veterinary physiotherapy and acquire 22 credentials. The organization is called ACAP, which 23 is the association of chartered animal 24 physiotherapists, something like that.</p>	<p style="text-align: right;">234</p> <p>1 However, of course, we deal with 50 2 different states, and I've had a number of meetings 3 over the years, both with the deans of the 4 physiotherapy colleges, who would need to accept the 5 plan for adding to their curriculum and adding, 6 quite frankly, to their responsibilities, because 7 they'll now be getting applicants from students who 8 want to be veterinary physiotherapists. And I've 9 also met with regulatory boards across the country. 10 And it requires meeting with both the veterinary 11 board and with the physiotherapy boards because the 12 veterinary boards have to agree to give up some of 13 their professional domain in order for the, in this 14 country, physiotherapist to be allowed to work with 15 animals in a way that is offering health-care 16 services. 17 So it's a complicated system to deal 18 with. And that's what we've done. 19 Q. In your vision, would that be something 20 that would be under the umbrella of the ACVSMR 21 project, or is that a separate project of Homecoming 22 Farm? 23 A. Well, it would be an extension of our 24 training of physiotherapists and of veterinarians,</p>

<p style="text-align: right;">235</p> <p>1 because the training in veterinary medicine would 2 change because we now have this paraprofessional 3 that is a team member. When I developed the 4 American College of Veterinary Sports Medicine and 5 Rehabilitation, it became clear that, as much as I 6 would like to focus only on the veterinarian's role, 7 by creating a health-care system that was modeled 8 after the human health-care system required also 9 supporting and creating all of these other team 10 members. So in that sense it's a project, yes, of 11 ACVSMR. 12 Q. Who is -- and I'm going to mispronounce 13 some of these -- Dennis Brida? 14 A. Yes. Dennis Brida is a -- was a racehorse 15 trainer for many, many years in New York and Florida 16 predominantly. Dennis was the president of -- and I 17 might choose the wrong one. I believe it was the 18 New York Thoroughbred Owners, Breeders, and Trainers 19 Association, but forgive me if I'm off slightly. 20 It's the major association in New York for the 21 racing industry. Dennis was the general manager of 22 a farm just outside Saratoga called Stonebridge 23 Farm. 24 Q. How long has he been associated with</p>	<p style="text-align: right;">237</p> <p>1 A. Well, I wasn't looking to get anyone 2 involved in particular, so.... 3 Q. In other words, what I'm asking is: Is 4 there anyone else -- you described a conversation 5 with Dr. Gillette -- 6 A. Yes. 7 Q. -- that I think you said you initiated 8 because Dr. Park had told you that you needed 9 academics. 10 A. Or Dr. Sabin. I forget -- 11 Q. Somebody from -- I forget we're not having 12 a conversation. Somebody from the ACVSMR told you 13 you needed academics to be involved with the ACVSMR 14 project; correct? 15 A. No, I would say that -- your statement is 16 true. However, my focus was on someone who did 17 canine. 18 Q. I see. Let me ask a different question. 19 Somebody from the American Veterinary Medical 20 Association had told you that you needed to have 21 veterinarians with experience with other species 22 involved in the project; is that correct? 23 A. This is how I would characterize it: The 24 AVMA told me that the -- any new specialty</p>
<p style="text-align: right;">236</p> <p>1 Homecoming Farm? 2 A. I believe since I met Dennis in about 2008. 3 Q. I forgot to ask you: How long has Jane 4 Hutton been associated with Homecoming Farm? 5 A. Since 1999. 6 Q. And how did you meet her? 7 A. At the conference in Oregon. 8 Q. Is this the same conference at which you 9 met Dr. Gillette? 10 A. Yes. 11 Q. And after you talked -- had talked to Dr. 12 Park? 13 A. Yes. 14 Q. By the way, you mentioned yesterday that 15 one of the reasons you went to that conference was 16 to find other people to become involved in the 17 ACVSMR project; is that correct? 18 A. Well, I had submitted a paper, and since it 19 was on my to-do list to begin to identify small- 20 animal, in particular, colleagues, then it was my 21 sort of first stop. I knew I was going to go to the 22 conference because I was presenting a paper. 23 Q. Was Jane Hutton one of the people you were 24 looking to get involved in that project?</p>	<p style="text-align: right;">238</p> <p>1 organization that I would propose creating would 2 need to serve any species or all species of animal, 3 and they pretty much break it up into large and 4 small -- so large-animal medicine and small-animal 5 medicine. 6 Q. And is it fair to say that for sports 7 medicine we're really talking about dogs and horses? 8 A. That's certainly the majority. I've seen a 9 few racing camels in my practice. 10 Q. And I know you've done some small work with 11 elephants once. 12 A. Yes, I have. 13 Q. But not sports performing elephants. 14 A. Although they do play polo off of elephants 15 in India, yes. 16 Q. So when you approached Dr. Gillette, it was 17 with this small-animal/large-animal issue in mind; 18 correct? 19 A. Yes, exactly. 20 Q. Did you approach anyone else for that same 21 reason or with that same issue in mind? 22 A. No, I did not. 23 Q. Dr. Gillette was your only one? 24 A. Yes.</p>

<p style="text-align: right;">239</p> <p>1 Q. So your meeting with Jane Hutton was not 2 related to that; correct?</p> <p>3 A. No. It wasn't really a meeting with Jane 4 Hutton. I wouldn't characterize it as that. She 5 actually came up to me after I presented the paper 6 and explained that she felt that what I had just 7 presented spoke directly to issues that she saw all 8 the time. And I had just come back from England 9 because I was working with other physiotherapists 10 and veterinarians there.</p> <p>11 Q. One more name, Curtis Burns. Who is that?</p> <p>12 A. Curtis Burns is a farrier who invented a 13 very new type of horseshoe and has patented it. And 14 this horseshoe, when applied to my patients, has 15 shown a type of benefit that is remarkable.</p> <p>16 Q. What is his involvement with Homecoming 17 Farm?</p> <p>18 A. That would be -- we collaborate on 19 research, and he has done some teaching, also.</p> <p>20 Q. Where has that teaching taken place?</p> <p>21 A. I think all in Florida.</p> <p>22 Q. Is that his own facility?</p> <p>23 A. No. In Florida you justly work wherever 24 the horses are. It's a very big horse area.</p>	<p style="text-align: right;">241</p> <p>1 A. Oh. The time of the creation of the 2 American College of Veterinary Sports Medicine and 3 Rehabilitation.</p> <p>4 Q. The time of the creation of the project by 5 Homecoming Farm?</p> <p>6 A. No, really the time of the creation of 7 Homecoming Farm.</p> <p>8 Q. Now, yesterday Mr. Dickison asked you a 9 bunch of questions about your computers, and we went 10 through, and I'm not going to go through all that 11 again. But I just wanted to clarify: When you were 12 answering the questions about your computers, does 13 Homecoming Farm have computers distinct from Dr. 14 Lyons's computers?</p> <p>15 A. No.</p> <p>16 Q. So all those questions that you answered 17 yesterday are the same for Homecoming Farm?</p> <p>18 A. Yes.</p> <p>19 Q. And does anyone else have access to 20 Homecoming Farm computers besides you?</p> <p>21 A. Over the years, yes.</p> <p>22 Q. And who has had access?</p> <p>23 A. It depends on where I am and what I'm 24 doing. So with my laptops, you know, they're</p>
<p style="text-align: right;">240</p> <p>1 Q. Is Curtis Burns a veterinarian or a 2 farrier?</p> <p>3 A. He's a farrier.</p> <p>4 Q. Is Dennis Brida a veterinarian?</p> <p>5 A. No, he isn't.</p> <p>6 Q. How long has Curtis Burns been involved 7 with Homecoming Farm? Or since when, approximately?</p> <p>8 A. I would say approximately 2008 or so. I 9 would have to look up when he came up with his shoe.</p> <p>10 Q. But within the last ten years.</p> <p>11 A. Yes.</p> <p>12 Q. Now, what did you do in this case -- you 13 know, you received document requests from my client 14 and from Mark Dickison's client; correct?</p> <p>15 A. Yes.</p> <p>16 Q. What did you do to search for documents in 17 response to those requests?</p> <p>18 A. I searched every box -- basically, 19 everything that I had that dated back to that time, 20 whether they were stacks of magazines or whatever 21 had been kept.</p> <p>22 Q. What time period are you referring to by 23 "that time"? You said "everything that dated back 24 to that time."</p>	<p style="text-align: right;">242</p> <p>1 generally open, and others will enter data for me, 2 will check email for me, whatever.</p> <p>3 Q. When you say "others," are these clients?</p> <p>4 A. Clients, employees of clients, students.</p> <p>5 Q. By the way, there's another veterinary 6 question I have: Do you call clients the people 7 that own the animals and patients the animals?</p> <p>8 A. Yes.</p> <p>9 Q. I just wanted to make sure there weren't 10 horses checking your email.</p> <p>11 A. No.</p> <p>12 Q. I know that Homecoming Farm doesn't employ 13 anybody; correct?</p> <p>14 A. That's correct.</p> <p>15 Q. Are there volunteer staff?</p> <p>16 A. Not staff, no.</p> <p>17 Q. Who, for instance, is Lauren Kingston?</p> <p>18 A. Lauren Kingston -- I would have to look at 19 documents to remember whether she had been a board 20 member. But Lauren would help us by either sending 21 materials, if I was out of the country, to someone 22 as needed. Basically, if I asked her to help, she 23 would.</p> <p>24 Q. How physically did she do that? Did she</p>

<p style="text-align: right;">243</p> <p>1 have access to your home?</p> <p>2 A. Actually, she did come over to the home at</p> <p>3 times, yes, but also through her own computers.</p> <p>4 Q. Are you still in touch with her?</p> <p>5 A. No.</p> <p>6 Q. Who is she? What does she do for a living?</p> <p>7 A. She was a housewife.</p> <p>8 Q. Someone you just knew socially?</p> <p>9 A. Yes.</p> <p>10 Q. And why are you no longer in touch with</p> <p>11 her?</p> <p>12 A. Just because I'm always gone.</p> <p>13 Q. And do you know -- if she was on your board</p> <p>14 at one time, do you know why she left?</p> <p>15 A. Well, it's not a matter of leaving. It's a</p> <p>16 matter, you know, of what we need and what our</p> <p>17 projects are.</p> <p>18 Q. Anybody else besides Lauren Kingston that</p> <p>19 might have -- I'm sorry, scratch that. A different</p> <p>20 question.</p> <p>21 If Lauren Kingston did send materials</p> <p>22 while you were out of the country on your behalf,</p> <p>23 would she do it from your email account -- or, I</p> <p>24 should say, from one of your email accounts?</p>	<p style="text-align: right;">245</p> <p>1 would need to come up with the names in order to</p> <p>2 answer your question.</p> <p>3 Q. And you -- sitting here today, you can't</p> <p>4 remember who those other people are?</p> <p>5 A. Not at this time.</p> <p>6 Q. Let me mark a document. I don't think it's</p> <p>7 been marked yet.</p> <p>8 MR. KLUFT: I'm going to mark a document</p> <p>9 as Exhibit 14.</p> <p>10 (Exhibit 14, response of plaintiffs to</p> <p>11 first request for production of documents, marked</p> <p>12 for identification.)</p> <p>13 Q. I'm going to ask you to take a look at this</p> <p>14 document marked 14. You can pass that other copy to</p> <p>15 your attorney. And I'll represent to you that this</p> <p>16 is your answer to the document request propounded by</p> <p>17 my client in this case. Do you agree with that</p> <p>18 statement?</p> <p>19 A. Yes, I agree.</p> <p>20 Q. Now, can you please read -- you don't have</p> <p>21 to do this out loud, but read Request No. 1 and your</p> <p>22 response to Request No. 1. That would be starting</p> <p>23 on Page 1 and going over to Page 2.</p> <p>24 A. Yes, I've read it.</p>
<p style="text-align: right;">244</p> <p>1 A. I don't specifically recall, but she may</p> <p>2 have checked email for me if there was a time when I</p> <p>3 had no access to it.</p> <p>4 Q. Do you recall ever giving her your password</p> <p>5 or user name in order to access your email?</p> <p>6 A. Yes.</p> <p>7 Q. Did you give that to anybody else that you</p> <p>8 can recall?</p> <p>9 A. Yes.</p> <p>10 Q. Who would that be?</p> <p>11 A. Eleanor Code had it.</p> <p>12 Q. Is that another board member?</p> <p>13 A. Yes, she was.</p> <p>14 Q. Anyone else?</p> <p>15 A. Yes, but I can't recall who. There were</p> <p>16 many times that I was unable to access emails, and</p> <p>17 if I was expecting something, I would ask someone to</p> <p>18 check and let me know if it had come in.</p> <p>19 Q. Would all these people be board members?</p> <p>20 A. No.</p> <p>21 Q. Who else besides board members, what other</p> <p>22 categories of people?</p> <p>23 A. Again, I don't know, because I don't know</p> <p>24 as I sit here just who those people would be. I</p>	<p style="text-align: right;">246</p> <p>1 Q. Thank you. Now, I understand that in your</p> <p>2 response you object to the term -- or your attorney</p> <p>3 objects to the term "selection and adoption," and</p> <p>4 I'm not here to challenge you on the term. I'm just</p> <p>5 asking a simple question, which is: I understand</p> <p>6 that you agreed to produce the document known as the</p> <p>7 Equine Excellence Initiative, which as you say here,</p> <p>8 represents the first and official adoption of the</p> <p>9 mark in commerce. My question to you is: Are there</p> <p>10 any documents in your possession with the mark, the</p> <p>11 ACVSMR mark, that precede the Equine Excellence</p> <p>12 Initiative?</p> <p>13 A. I would need to review all the documents</p> <p>14 that I have produced.</p> <p>15 Q. Let me make it easier, then. Are there any</p> <p>16 that you have not produced?</p> <p>17 A. No, not that I'm aware of, not that I have</p> <p>18 found at this time.</p> <p>19 Q. You mentioned that you hired a consulting</p> <p>20 firm back in 1995.</p> <p>21 A. Yes.</p> <p>22 Q. And that as a result of the homework given</p> <p>23 to you, I think you said, by that consulting firm,</p> <p>24 you came up with the name. Is that correct?</p>

<p style="text-align: right;">247</p> <p>1 A. That's correct. Well, no. As a result of 2 the homework that I was given, we developed distinct 3 projects within the plan of Homecoming Farm. The 4 name really had already been decided. It's not as 5 if that was a struggle when I was given that 6 assignment. But as I believe I said in my answers 7 to interrogatories, it was a time period preceding 8 that that I developed the -- or I chose in my mind 9 to use that name. 10 Q. And when did you first think of the name, 11 then? You're saying -- 12 I'm sorry, let me ask you a better 13 question. Are you saying that you had the name in 14 mind prior to your engagement of the consulting 15 firm? 16 A. Yes. 17 Q. Who was the consulting firm? 18 A. I believe the name was Jane Lennox. 19 Q. Can you spell that, please? No? 20 Did you have any correspondence with 21 Jane Lennox? Any written correspondence. 22 A. I don't recall. 23 Q. Did you look for that correspondence? 24 A. I looked for everything that related to</p>	<p style="text-align: right;">249</p> <p>1 A. Yes. 2 Q. Let me just ask you: Why did you have her 3 type it instead of yourself? 4 A. Because I did not have a computer. 5 Q. And what was her typing based on? Did you 6 dictate to her? 7 A. No. I had developed the materials; put 8 them together, as she had suggested, into distinct 9 projects. And she presented -- you know, she did 10 the layout of the Equine Excellence Initiative. We 11 chose the title. She helped. 12 Q. When you say -- I can't remember what 13 exactly you just said. But you had some materials 14 that you were working off of? Is that correct? 15 A. Yes. 16 Q. And have you produced those materials in 17 this litigation? 18 A. They no longer exist because they became 19 the Equine Excellence Initiative. 20 Q. Were those handwritten materials? 21 A. Yes. 22 Q. And when did you discard those materials? 23 A. Immediately. 24 Q. I just want to move on to Request No. 7 of</p>
<p style="text-align: right;">248</p> <p>1 the -- to that time period and all of the time 2 period. 3 Q. When is the last time you spoke with Jane 4 Lennox? 5 A. 1996. 6 Q. And how much did you pay her? 7 A. I don't recall. 8 Q. Did she produce any written work product 9 for you? 10 A. She created or -- excuse me, she typed the 11 documents, the Equine Excellence Initiative. 12 Q. She typed it. 13 A. Yes. 14 Q. And what were the circumstances of her 15 typing it? That's a terrible question. 16 Were you with her when she typed it? 17 A. I think I was, yes. 18 Q. Did she type it on a typewriter or on a 19 computer? 20 A. On a computer. 21 Q. And was it on a computer she owned? 22 A. Yes. 23 Q. And this was work she was doing for hire 24 for you?</p>	<p style="text-align: right;">250</p> <p>1 this Exhibit No. 14. Can you please read the 2 request and your response. 3 I'm sorry, I'm going to ask you to read 4 6 and 7, please. 5 A. Okay. 6 Q. Have you had a chance to look at it? 7 A. Yes. 8 Q. I know here again you agree to produce 9 documents including, but not limited to, all 10 cease-and-desist letters sent by the attorneys. And 11 I just want to make sure: Is there any 12 correspondence between you and any of my clients 13 that you have not produced that is in your 14 possession? 15 A. Not that -- I believe that everything that 16 I have has been produced in document discovery. 17 Q. So every email that you kept, every letter 18 between you and, say, Dr. Gillette, you turned over 19 to your attorney; is that correct? 20 A. Yes. 21 Q. And can you take a look at Request No. 11, 22 please, and please read the request and the 23 response. 24 A. Okay.</p>

<p style="text-align: right;">251</p> <p>1 Q. Now, the request here is for printouts of 2 your -- well, the request here is for documents 3 related to your Web pages. And I know that in 4 response you produced some recent printouts from 5 your Web pages. Do you recall that? 6 A. Yes. 7 Q. And my question is: Are there any 8 documents pertaining to older versions of any of 9 your Web pages? 10 A. Yes. 11 Q. And what are those documents? Have they 12 been produced? 13 A. Yes. 14 Q. Are there any documents you have related to 15 any prior version of any of your Web pages that has 16 not been produced? Let me clarify: I know you have 17 a lot of Web pages. I'm specifically talking about 18 those related to ACVSMR. 19 A. Actually, I would say that I don't have a 20 lot of Web pages. I have a lot of domain names. 21 Q. Fair enough. 22 A. They've only ever pointed out, I believe, 23 three Web pages. 24 Q. And one of those is Homecoming Farm?</p>	<p style="text-align: right;">253</p> <p>1 A. Yes. 2 Q. So you learned how to use the software and 3 created it? 4 A. No, it's not software. I use a -- 5 whatever -- a host, and they provide just templates. 6 Q. I see. And who is that host? 7 A. I believe currently it's Homestead. 8 Q. And have you contacted them to see if they 9 have earlier versions of your Web page? I'm 10 speaking about Homecoming Farm right now. 11 A. No. 12 Q. How about the ACVSMR Web page? Is that 13 also hosted by Homestead? 14 A. Yes. 15 Q. And you haven't contacted them about that 16 page either; correct? 17 A. No. 18 Q. Can you please read Request No. 14 and 19 Response No. 14, please. And again, this is Exhibit 20 No. 14. 21 Now, in it, I know that your lawyer in 22 part objected, but you agreed to produce documents 23 created by the plaintiff -- i.e., you and Homecoming 24 Farm -- for the purposes of obtaining recognition by</p>
<p style="text-align: right;">252</p> <p>1 A. Yes. 2 Q. And one of those is your personal-practice 3 Web page? 4 A. Yes. 5 Q. And the other is the ACVSMR Web page; is 6 that right? 7 A. Yes. 8 Q. In terms of the pages, versions, then of 9 the Homecoming Farm and the ACVSMR pages, do you 10 have in your possession copies or any documents 11 pertaining to older versions of those pages? 12 A. I've produced those in the -- I think it 13 was the U.S. PTO file. 14 Q. Everything that you have has been produced 15 in this action or the other action. 16 A. Yes. 17 Q. Who actually produces your Web page? In 18 other words, who types that one in? 19 A. Which Web page? 20 Q. Well, let's start with Homecoming Farm. 21 Who actually is the webmaster, if you will? 22 A. The current Web page that I have, I've 23 created it. 24 Q. You created it personally.</p>	<p style="text-align: right;">254</p> <p>1 the AVMA. Have you produced those documents? 2 A. Yes. 3 Q. Do you have any documents created by 4 anybody else that are in your possession that 5 pertain to recognition by the AVMA? 6 A. Yes. 7 Q. Do you have documents created by any 8 defendant that pertain to recognition by the AVMA 9 that you have not produced? 10 A. No. 11 Q. We've going for about an hour. I usually 12 ask every hour if you want a break, so I'll ask it 13 now. 14 A. I'm good if you're good. 15 Q. Okay. Let's continue. 16 I want to ask you a couple of questions, 17 following up from yesterday, about the trademark and 18 copyrights at issue in this case. Have you ever 19 used the ACVSMR mark to sell veterinary services -- 20 in other words, your own personal veterinary 21 services that you charge for? 22 A. When you say "try to sell," no. 23 Q. Obviously, I understand that it's in your 24 bio; correct?</p>

<p style="text-align: right;">255</p> <p>1 A. Yes.</p> <p>2 Q. But have you ever sold veterinary services</p> <p>3 under the business name ACVSMR?</p> <p>4 A. No.</p> <p>5 Let me continue that answer.</p> <p>6 Q. Please.</p> <p>7 A. I use these founder and director or some</p> <p>8 ACVSMR distinction in my reports or whatever for</p> <p>9 private patients. So that's not -- at least in my</p> <p>10 mind, that's not trying to sell something.</p> <p>11 Q. Right.</p> <p>12 A. That's just stating a fact.</p> <p>13 Q. I understand. What I'm asking is something</p> <p>14 different, which is: Do any of your clients, to</p> <p>15 your knowledge, think that when they hire you to</p> <p>16 perform veterinary services, they are hiring an</p> <p>17 organization or a company called ACVSMR?</p> <p>18 A. You would have to ask them, but it's</p> <p>19 certainly not my sense that they do.</p> <p>20 Q. Understood. Can you take a look at Exhibit</p> <p>21 1, which should be in the pile of yesterday's</p> <p>22 exhibits. And this is your complaint in this</p> <p>23 action. And I'm going to ask you to turn to Page 5,</p> <p>24 Paragraph 17. Let me know when you've had a chance</p>	<p style="text-align: right;">257</p> <p>1 own mind, other than anything your attorneys told</p> <p>2 you, any knowledge of what the use of the word</p> <p>3 "individually" means here?</p> <p>4 A. I wouldn't be comfortable answering that,</p> <p>5 because those aren't my words.</p> <p>6 Q. Now, in your complaint -- and I can point</p> <p>7 you to a specific paragraph, but I think it's</p> <p>8 generally there -- you're alleging that there's</p> <p>9 confusion between -- in the marks; correct? Because</p> <p>10 the -- and let me make sure I understand -- because</p> <p>11 there's two organizations both using the acronym and</p> <p>12 the words ACVSMR. Correct?</p> <p>13 A. Yes.</p> <p>14 Q. And they're both related to veterinary --</p> <p>15 the veterinary profession; correct?</p> <p>16 A. Yes.</p> <p>17 Q. And do you dispute that there is confusion</p> <p>18 based on the dual use of the same name by both</p> <p>19 organizations?</p> <p>20 A. I do not dispute that there's confusion.</p> <p>21 Q. I'm going to show you another document,</p> <p>22 that I'm going to mark as Exhibit 15.</p> <p>23 (Exhibit 15, "Copyright," marked for</p> <p>24 identification.)</p>
<p style="text-align: right;">256</p> <p>1 to read that paragraph.</p> <p>2 A. Yes.</p> <p>3 Q. My question is this; it's about the word</p> <p>4 "individually." When you say that -- I mean, I can</p> <p>5 read the whole sentence, if you want. But it lists</p> <p>6 a number of activities and says that you have used</p> <p>7 them -- you've done them individually on behalf of</p> <p>8 Homecoming Farm in the name of ACVSMR. What do you</p> <p>9 mean here by "individually"? If you know.</p> <p>10 MR. LYONS: When you say "What did you</p> <p>11 mean individually," this just goes to the form of</p> <p>12 your question. It might be why the witness is</p> <p>13 having trouble answering it. You're asking her</p> <p>14 about a document which she did not author. This is</p> <p>15 a document that was authored by her attorneys. So</p> <p>16 are you asking what did her attorneys mean, or are</p> <p>17 you asking whether she understands what that means</p> <p>18 or whether she did do it individually? Maybe you</p> <p>19 could clarify your question.</p> <p>20 MR. KLUFT: That's a very fair -- I'll</p> <p>21 take it as an objection, and a good one.</p> <p>22 Q. Do you -- and I don't want you to tell me</p> <p>23 anything that your attorney told me (sic). That's</p> <p>24 not what I'm here for today. Do you have in your</p>	<p style="text-align: right;">258</p> <p>1 Q. Take a look at Exhibit 15. I represent to</p> <p>2 you that this is a document produced in this form as</p> <p>3 a single PDF file by you and your attorney in this</p> <p>4 case. Do you -- and I believe that the cover page</p> <p>5 is actually a cover page produced by your attorney</p> <p>6 to identify the category of document. Do you</p> <p>7 recognize this document?</p> <p>8 A. Yes.</p> <p>9 Q. And is this in fact the entire set of</p> <p>10 copyrighted material in dispute in this case?</p> <p>11 MR. LYONS: These are the documents that</p> <p>12 were produced that were in her possession at the</p> <p>13 time. And as she's told you, there have been</p> <p>14 additional documents produced since that time which</p> <p>15 she has not had an opportunity to thoroughly review.</p> <p>16 I'm trying to understand your question.</p> <p>17 MR. KLUFT: My understanding is that</p> <p>18 these are documents authored by her, not documents</p> <p>19 that -- so my question is -- I think I can short-</p> <p>20 circuit this, because I'm not trying to do that. I</p> <p>21 know what you're getting at.</p> <p>22 Q. Can you please turn to the second page of</p> <p>23 this document, which would be on the back. It's</p> <p>24 double-sided. Is that a title -- is that a true and</p>

<p style="text-align: right;">259</p> <p>1 accurate copy of your certificate of registration 2 for copyright No. TXU 1786800? 3 A. Yes. 4 Q. And is this -- is that -- are the documents 5 registered under that number the documents on which 6 you base your copyright claim in this case? 7 A. In part. 8 Q. Do you have other copyrights, other than 9 this one? 10 A. I'm not a lawyer, and I think that might be 11 a bit of a legal question, because, as I understand 12 it, a copyright is created the minute a document is 13 created. 14 Q. That's absolutely correct, so let me ask it 15 a little differently. Do you have any other 16 copyright registrations, other than this one? 17 A. No. 18 Q. Now, this document is a collection of four 19 documents, as I see it; correct? According to the 20 title of the work. I see four titles. 21 A. I see five. 22 Q. I'm sorry, you're right: five titles. I 23 just want to ask you a couple of questions about 24 some of these.</p>	<p style="text-align: right;">261</p> <p>1 that proposal. 2 Q. Fair enough. So some of the formatting and 3 words might have changed, but the substance wouldn't 4 have changed at that time? 5 A. That's correct. 6 Q. And do you know, the Johnson &amp; Johnson 7 version, that's not the version you registered; 8 correct? 9 A. That's correct. 10 Q. This is the original that we're looking at 11 right here? 12 A. That's correct, although I believe the 13 Johnson &amp; Johnson was printed first, because I 14 needed it before I needed 100 copies of.... 15 Q. When was the Johnson &amp; Johnson proposal? 16 A. It was in 1996, and I can't remember. It 17 may have predated June 1st. 18 Q. I'll ask you a question about that later. 19 I think I'm going to show you a copy of it in a 20 little bit. 21 A. Okay. 22 Q. So let me move on. I'm going to ask you -- 23 Oh, where did you make the copies of 24 this after you first produced it?</p>
<p style="text-align: right;">260</p> <p>1 Can you turn to -- and you understand 2 what a Bates number is; correct? 3 A. Yes, I do. 4 Q. Can you please turn to Bates No. 3412, 5 please. Do you recognize this document? 6 A. Yes. 7 Q. And what is it? 8 A. It's the Equine Excellence Initiative. 9 Q. Is this the document you produced in 1996 10 after speaking with the consultant? 11 A. Yes. 12 Q. This is the actual -- a true and accurate 13 copy of what she actually typed at that time? 14 A. Yes. 15 Q. Has it changed since then? 16 A. I don't believe so. 17 Q. Has this document ever changed since 1996, 18 when you originally typed it or had it typed by the 19 consultant? 20 A. There was a second one of these that was 21 made specifically for, I believe, the Johnson &amp; 22 Johnson proposal. It was simply printed 23 additionally. And I don't recall now whether or not 24 there might have been a designation that it was for</p>	<p style="text-align: right;">262</p> <p>1 A. Everywhere. 2 Q. When was the first distribution of this 3 document after it was produced in 1996? 4 A. I believe near that June 1st date in 1996. 5 Q. How did -- I'm sorry; I didn't mean to 6 interrupt you. How did you -- who did you send it 7 to at that time? Do you have a list? 8 A. I produced in my document production for 9 the defendants material relating to that, but I 10 don't have a discrete list. I sent it to 11 pharmaceutical companies, to veterinary schools, to 12 physical therapy schools, to horse owners, to 13 industry associations. I sent it widely. 14 Q. I saw in your production -- and if this is 15 a mischaracterization, just tell me -- a lot of 16 copies of magazines and brochures and articles. And 17 in some cases there was a sort of, I don't want to 18 say scribble, but there was handwriting on the side 19 that said "Send EEI" or "Sent EEI." Yes. Is that 20 how you decided to whom to send a copy of this? 21 A. The decision of whom to send it to came 22 from many different sources. So, for example, if I 23 were sending them to veterinary schools, I would 24 have gotten the addresses for a number of veterinary</p>

<p style="text-align: right;">263</p> <p>1 schools and sent them.</p> <p>2 But then when I would do things like go</p> <p>3 to a competition on behalf of a client, whatever --</p> <p>4 in my travels, when I came upon either individuals</p> <p>5 that I thought I'd like to sent it to, or companies,</p> <p>6 then I would keep those source materials, make a</p> <p>7 note to myself, and then send it off.</p> <p>8 Q. Okay, fair enough. So is it fair to say</p> <p>9 that this was not sent in one bulk mailing but in</p> <p>10 many, many mailings and many, many hand</p> <p>11 distributions over time?</p> <p>12 A. Many, yes.</p> <p>13 Q. Can you please turn to Bates Stamp 3435.</p> <p>14 I'm sorry, please turn to 3420 first.</p> <p>15 And specifically, that's a document called the</p> <p>16 articles of incorporation.</p> <p>17 A. Yes.</p> <p>18 Q. And is it fair to say that this document</p> <p>19 goes to about Page 3435?</p> <p>20 A. Yes. 3434, actually.</p> <p>21 Q. Correct. I apologize. Now, yesterday</p> <p>22 Mr. Dickison asked you about the creation of the</p> <p>23 bylaws for the ACVSMR organizing committee; correct?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">265</p> <p>1 Q. Yesterday Mr. Dickison asked you a series</p> <p>2 of questions about some back-and-forth you had with</p> <p>3 the members of the organizing committee about the</p> <p>4 bylaws.</p> <p>5 A. Yes.</p> <p>6 Q. And that there was input from multiple</p> <p>7 people in these bylaws; is that correct?</p> <p>8 A. No, I would disagree with that.</p> <p>9 Q. You were the sole author of this? And when</p> <p>10 I say "this," I'm not talking about the whole</p> <p>11 exhibit, but just the bylaws and articles of</p> <p>12 incorporation. Are you the sole author of that</p> <p>13 document?</p> <p>14 A. I prepared this document. There are --</p> <p>15 going back to your question before, some of which is</p> <p>16 what lay people would call legalese. So some of</p> <p>17 that is boilerplate.</p> <p>18 Q. And where did you get that boilerplate?</p> <p>19 A. I don't recall.</p> <p>20 Q. Can you take a look at Exhibit 1 again.</p> <p>21 I'm going to ask you to turn to Page 8, Table 28.</p> <p>22 Take a look at that. Have you had a chance to look</p> <p>23 at that?</p> <p>24 A. Yes, I have.</p>
<p style="text-align: right;">264</p> <p>1 Q. Are these those bylaws and articles of</p> <p>2 incorporation? And I apologize; I'm not a corporate</p> <p>3 lawyer, so I tend to use those terms a little</p> <p>4 loosely. But this is called articles of</p> <p>5 incorporation; correct? And then there's also a set</p> <p>6 of bylaws.</p> <p>7 A. That's correct.</p> <p>8 Q. And these were always -- as far as you</p> <p>9 know, these were always together as articles and</p> <p>10 bylaws; correct?</p> <p>11 A. Correct.</p> <p>12 Q. I'll just talk about it as one document.</p> <p>13 Is in the document that you produced for that</p> <p>14 purpose -- in other words, originally for the</p> <p>15 organizing committee?</p> <p>16 A. This was a document that I produced for the</p> <p>17 Homecoming Farm project, the American College of</p> <p>18 Veterinary Sport Medicine and Rehabilitation, which</p> <p>19 was certain the organizing committee that I was the</p> <p>20 founder of.</p> <p>21 Q. And did you type this yourself or did you</p> <p>22 have an attorney's help? And I don't want you to</p> <p>23 tell me what that attorney said.</p> <p>24 A. I don't recall.</p>	<p style="text-align: right;">266</p> <p>1 Q. Just so I know, in this paragraph, do you</p> <p>2 know if that refers to -- and I understand you're</p> <p>3 not the author of this document. But do you</p> <p>4 understand if that paragraph refers to the bylaws</p> <p>5 and articles of incorporation? In other words, did</p> <p>6 you base the bylaws and articles of incorporation on</p> <p>7 a similar set of bylaws from something that was in</p> <p>8 place in human medicine?</p> <p>9 A. That's not what that paragraph says.</p> <p>10 Q. That's why I'm asking. So this paragraph</p> <p>11 does not address the issue of the bylaws and</p> <p>12 articles of incorporation; correct?</p> <p>13 A. Well, it includes a portion of the bylaws,</p> <p>14 yes, because the ACVSMR's educational programs and</p> <p>15 initiatives, which described the training programs,</p> <p>16 the curriculum for training veterinarians,</p> <p>17 essentially a training manual -- that's part of the</p> <p>18 bylaws.</p> <p>19 Q. And so when it says -- so to the extent --</p> <p>20 were any of those aspects of the bylaws, as it says</p> <p>21 here, developed and adapted following the standards</p> <p>22 in place in human medicine?</p> <p>23 A. The whole program was created to take my</p> <p>24 experience and understanding of human medicine and</p>

<p style="text-align: right;">267</p> <p>1 to adapt it significantly to be suitable for 2 veterinarians. 3 Q. Is there a specific document that you 4 referred to that had been used -- I'm sorry. Let me 5 start the question again. When you were drafting 6 the bylaws and articles of incorporation, was there 7 a specific document that had something to do with a 8 human-medicine organization that you were referring 9 to? 10 A. There were several. It was from a number 11 of different sources. 12 Q. And what were those? 13 A. Oh. I was generally informed by so many 14 different sources. I can't name documents. 15 Q. I'm specifically asking if there's any 16 documents that you borrowed language from. You 17 mentioned boilerplate, and I'm wondering what those 18 documents were. That's what I'm getting at here. 19 A. When you say "documents," it would have 20 been in the structure of the corporate structure. 21 So whether I obtained them through advice from a 22 nonprofit attorney or not, I don't recall. 23 Q. So fair to say that the sections you 24 described as legalese were not your original work,</p>	<p style="text-align: right;">269</p> <p>1 educational-program description. Yes. 2 Q. So this is the last document listed. 3 They're not necessarily in order. 4 A. That's correct. As I recall, when I 5 registered this copyright, they simply asked for 6 general terms to describe the work that we -- that I 7 was submitting for copyright protection. So each 8 page did not need to be included and titled in the 9 work, because this was submitted as a compilation, 10 or I can't remember the term that they used. 11 So I called everything from Page 3435 to 12 3491 -- 13 Q. Sorry, I have 3492 as the last page. 14 A. I'm sorry, I didn't look on the back. 15 Q. Did you mean to say 3492? 16 A. Yes, I did. 17 -- as ACVSMR educational program 18 description with ACVSMR student applications. 19 Q. Thank you. Do you know, this document, the 20 pages from 3435 to 3492, sitting here today -- and I 21 understand that you haven't reviewed every document 22 in this case. But sitting here today, what parts of 23 this document do you claim were copied by my 24 clients?</p>
<p style="text-align: right;">268</p> <p>1 "your" referring to the more substantive sections of 2 these bylaws, when you say you're the author of 3 them? 4 A. Yes, although, again, whether some of those 5 sections -- I would have to read it carefully and 6 read each section to know whether or not I had -- 7 I think actually some of it was specific 8 to the ACVSMR. 9 Q. Can I ask you to turn to Page 3435, please. 10 MR. LYONS: Exhibit 15? 11 MR. KLUFT: I'm sorry, yes, the same 12 exhibit, 15. 13 Q. Can you identify this page or the document 14 that begins with this page? 15 A. Yes. 16 Q. Can you turn back to the second page of 17 this document, so the one that is the certificate of 18 registration for copyright. And I'm not trying to 19 trick you here. I'm just trying to figure out what 20 document this is. In other words, on Document 3435, 21 I don't see that listed as one of the titles of 22 work. Can you explain what this document, 3435, is 23 doing in this set? 24 A. I believe it was in the beginning of the</p>	<p style="text-align: right;">270</p> <p>1 A. Well, it's difficult to know how to present 2 this. Are you asking me on a page-by-page basis? 3 Or would you like a general answer? 4 Q. Let me try and make it easier, if I can. I 5 understand that your claim in this case is that all 6 of my client's stuff, all their work product, is 7 based on your work. But I'm getting at something 8 different, which is actually the copying of language 9 directly, not based on research. I understand that 10 we all stand on the shoulders of giants, as it were, 11 and sometimes, as in this case, those giants don't 12 want to be stood on. But what I'm talking about is 13 something different, which is: What language in 14 these documents that you published was later 15 published by my clients? 16 A. I would say the majority of it. 17 Q. The majority of it. 18 A. Your clients took my compilation, which is 19 what all of these copyright documents are -- they're 20 a compilation of various facts and elements of a 21 plan, a curriculum for training veterinarians, the 22 way that I describe the purpose and mission, and 23 just what this ACVSMR will accomplish -- 24 Your clients took these documents, and</p>

<p style="text-align: right;">271</p> <p>1 in some cases there was verbatim copying, and in 2 others it was just a -- I shouldn't say "just"; it 3 was a studied rephrasing of my material. They 4 copied it. 5 Q. Understood. And that's the distinction I 6 was making between verbatim and rephrasing, as you 7 put it. 8 Let me show you another document, and I 9 want to ask you more about the verbatim stuff only, 10 right now. I understand there are others in this 11 case, but I'm trying to get as granular as I can so 12 that I can understand what your claims are. 13 MR. KLUFT: Steve, do you want to take a 14 break? 15 MR. LYONS: It's 11:30. How about a 16 five-minute break? 17 MR. KLUFT: Absolutely. 18 (Exhibit 16, affidavit of Sheila Lyons, 19 marked for identification.) 20 MR. KLUFT: Back on the record. 21 Q. Are you ready to continue, Dr. Lyons? 22 A. Yes. 23 Q. I've marked over the break, had marked, a 24 document, Exhibit 16. There's already a copy in</p>	<p style="text-align: right;">273</p> <p>1 correct? 2 A. I believe that's correct. 3 Q. And as of that time, were these the 4 instances that you were aware of verbatim copying by 5 my clients of your copyrighted work? 6 A. Yes, based on the materials that I had 7 available to me at the time. 8 Q. Since that time you've had other materials 9 available to you; is that correct? 10 A. Yes. 11 Q. Sitting here today, do you know of any 12 other instances of verbatim copying by my clients? 13 A. Yes. 14 Q. Can you tell me what those are? 15 A. Well, I would need your clients' petition 16 to the AVMA, and I would need to go through it line 17 by line and compare it with my copyrighted documents 18 in order to be able to answer that question. And 19 I'm happy to do that -- 20 Q. Well, I appreciate that, and that's 21 obviously something I can do as well on my own. I 22 guess what I'm asking you is: My understanding is 23 that you have already -- you had access when you 24 created this document to the November 2009 petition;</p>
<p style="text-align: right;">272</p> <p>1 front of your attorney. I am not going to go 2 through this entire document, but let me just ask 3 you: By looking at the front page, do you recognize 4 this document? 5 A. Based on looking at the front page, yes. 6 Q. Is this in fact -- this purports to be your 7 affidavit in this case; correct? 8 A. Yes. 9 Q. And I want you to please turn to Page 17, 10 Paragraph 95. When you've taken a look at that -- 11 In fact, I think in context, why don't 12 you read 93 through 95, because I don't want to.... 13 Have you had a chance to look at it? 14 A. Yes. 15 Q. Obviously you can see Paragraph 95 refers 16 to an Exhibit M; correct? 17 A. Yes. 18 Q. Can I also ask you to take a look at 19 Exhibit M, which I'll represent to you is Document 20 13-14, starting on Page 1 of 4. Now, my question to 21 you is: As of the time of this document, which is 22 dated February 24th, 2012, or thereabouts -- 23 That's when you composed this document, 24 approximately shortly before it was filed; is that</p>	<p style="text-align: right;">274</p> <p>1 is that correct? To the AVMA. You refer to it in 2 Exhibit M; correct? 3 Tell me if I'm misreading this. I'm 4 referring specifically to Page 2 of 4, the bottom 5 block, where it says on the right-hand side, 6 "Petition to AVMA ABVS." Is that the petition 7 you're referring to? 8 A. That would have been the name that was on 9 the document that I had to compare it to. But quite 10 frankly, between the document production from the 11 AVMA and the document production for ACVSMR, I have 12 come across so many different versions of this 13 petition that at this time, now that I have the rest 14 of your documents that have been produced, I can't 15 say whether or not what I was working on is what is 16 the 2009. 17 Q. Completely understandable. Let me ask the 18 question again but with: Putting aside other 19 versions of these same documents, are you aware of 20 any other instances of verbatim copying? 21 A. Yes. 22 Q. And what are those? 23 A. I would need to go through the petition 24 line by line.</p>

<p style="text-align: right;">275</p> <p>1 Q. We've already talked about the petition. 2 I'm talking about -- and maybe I didn't make the 3 question clear enough. You already had one version 4 of the petition when you prepared this document; 5 correct? 6 MR. LYONS: I don't think that's what 7 she said. 8 A. I don't -- I can't be sure now that 9 whatever document I had to work with here was 10 actually the document that your client produced and 11 represented -- or that the AVMA produced. 12 Q. Let me try it a different way. Let's take 13 the petition, all versions, as read. Putting aside 14 the petition and any version that has been produced 15 or that hasn't been produced -- and they all have 16 been, as far as I know. But putting aside all 17 versions of the petition that exist, are you aware 18 of any other instances of verbatim copying in other 19 documents? 20 With the understanding that you have 21 not -- and I'm saying sitting here today. I'm not 22 asking you for an encyclopedic knowledge of 15,000 23 documents. I'm saying, sitting here today, are you 24 aware of any?</p>	<p style="text-align: right;">277</p> <p>1 for the name of the document. So, in other words, 2 you already told me the petition. Is there any 3 other type of document -- 4 A. Oh, oh, Oh. 5 Q. -- that I should be looking at to see what 6 your claim of copyright infringement consists of? 7 In other words, let me give you an example: Another 8 document you mentioned here is the articles of 9 incorporation. Let's also exclude that. Let's 10 assume that all versions of those are suspect. 11 Let's assume that all versions of the petition are 12 suspect. Let's assume that all versions of the 13 website of my client are suspect. 14 And what I'm asking you is: In addition 15 to those, do any existing versions that ever 16 existed -- I'm trying to make it easy -- of those 17 three documents -- are you aware of any other 18 documents in which my client published verbatim 19 copies of your work or any other element of your 20 work? Verbatim copies. 21 A. Yes. 22 Q. And what are those documents? 23 A. I'm sorry. I would need to go through all 24 of your documents and pull those pages out.</p>
<p style="text-align: right;">276</p> <p>1 A. I believe, yes. 2 Q. And what are those? 3 A. I would need to go through them -- 4 Q. I've just prefaced the question by -- I'm 5 not trying to be rude, but I've prefaced the 6 question with the understanding that you have not 7 had the opportunity to memorize 15,000 documents. 8 What I'm asking you is, sitting here today, from 9 your review so far, are you aware of any other 10 documents in which, besides versions of the 11 petition, in which there's been verbatim copying by 12 my client? 13 A. I need the question again. 14 Q. Sure. Excluding all versions of the 15 petition, and with the understanding that you have 16 not reviewed every document produced in this case 17 and have not memorized every document in this case, 18 sitting here today, do you know of any additional 19 instances of my client publishing something with 20 verbatim copies of your work -- verbatim copies of 21 elements of your work? 22 A. I believe I do, but I can't give you the 23 verbatim copying from my memory. 24 Q. I'm not asking you for that. I'm asking</p>	<p style="text-align: right;">278</p> <p>1 Q. And my question assumes that you do not 2 have the opportunity to do that. Sitting here 3 today, when you answered the question yes, what 4 documents are in your mind? I'm not asking you to 5 prove your case right now. I'm asking you what 6 documents you think have verbatim copies of your 7 work in them. 8 A. I can't give a name to a document. 9 However, as I went through the documents that have 10 been produced as well as I could under the 11 circumstances, I did find verbatim copying. And 12 here's the other reason this is difficult; I'm 13 struggling to answer this accurately: I would have 14 to compare those documents to the petition, because 15 perhaps those documents were inserted into Dr. 16 Gillette's petition, and you've excluded that. 17 So my -- my answer is yes, but I can't 18 name a document. I'm unable to do that under these 19 circumstances. 20 Q. And you understand that in our 21 interrogatories to you we've asked you also to list 22 these instances of copying; correct? 23 A. I would need to -- 24 Q. I'm just asking: You're aware that there</p>

<p style="text-align: right;">279</p> <p>1 was an interrogatory response --</p> <p>2 A. Yes.</p> <p>3 Q. -- or an interrogatory request requesting</p> <p>4 that; correct?</p> <p>5 A. I would need to read the....</p> <p>6 Q. I want to ask you probably about an easier</p> <p>7 topic, which is Homecoming Farm. I just want to</p> <p>8 understand the timeline. Was there ever a farm, a</p> <p>9 physical harm, called Homecoming Farm?</p> <p>10 A. Yes, there was.</p> <p>11 Q. Was that located in New Hampshire?</p> <p>12 A. Yes.</p> <p>13 Q. And when did you first acquire that farm?</p> <p>14 A. I believe it was 1989. I'm not sure.</p> <p>15 Q. Was it acquired by you personally, or was</p> <p>16 it acquired by an organization called Homecoming</p> <p>17 Farm?</p> <p>18 A. By me personally:</p> <p>19 Q. Did the organization ever own it?</p> <p>20 A. No.</p> <p>21 Q. And when did you divest yourself of that</p> <p>22 property?</p> <p>23 A. I don't recall the year.</p> <p>24 Q. Approximately how many years did you have</p>	<p style="text-align: right;">281</p> <p>1 A. Yes.</p> <p>2 Q. And is this in fact the articles of</p> <p>3 incorporation of Homecoming Farm?</p> <p>4 A. Yes.</p> <p>5 Q. This was filed in approximately 1992; is</p> <p>6 that correct?</p> <p>7 A. Yes.</p> <p>8 Q. And are these still the articles of</p> <p>9 incorporation of Homecoming Farm?</p> <p>10 A. Yes.</p> <p>11 Q. If you see, there's a paragraph that begins</p> <p>12 with the capital letters "FIRST," and then there's a</p> <p>13 mess of paragraphs that begin with the capital</p> <p>14 letters "SECOND." Do you see that? It's on the</p> <p>15 first page of the articles. I'm talking about the</p> <p>16 first few lines, yes.</p> <p>17 After the word "SECOND" it says, "The</p> <p>18 purposes of the corporation shall be those described</p> <p>19 in Section 501(c)(3) of the IRS code to be</p> <p>20 accomplished by."</p> <p>21 A. Yes.</p> <p>22 Q. And then it goes on to list the purposes</p> <p>23 for which the Homecoming Farm was founded, or the</p> <p>24 activities that they will engage in to meet their</p>
<p style="text-align: right;">280</p> <p>1 it?</p> <p>2 A. I think four, but....</p> <p>3 Q. So sometime in the early '90s?</p> <p>4 A. My guess, yes.</p> <p>5 Q. I want to mark another document, as Exhibit</p> <p>6 17. And this is a collection of documents that I</p> <p>7 can tell you that I personally downloaded from the</p> <p>8 New Hampshire Secretary of State's website sometimes</p> <p>9 towards the beginning, after the complaint was</p> <p>10 filed.</p> <p>11 MR. LYONS: Do we need to have it</p> <p>12 marked?</p> <p>13 THE REPORTER: It's not marked yet.</p> <p>14 MR. KLUFT: I'm sorry. Thank you,</p> <p>15 Steve.</p> <p>16 (Exhibit 17, letter and attachment,</p> <p>17 marked for identification.)</p> <p>18 Q. I'm not actually going to ask you about the</p> <p>19 first page. I'm going to ask you about the document</p> <p>20 starting on the second page. My question is: Do</p> <p>21 you recognize this document?</p> <p>22 A. Yes.</p> <p>23 Q. Starting on -- do you recognize the</p> <p>24 document beginning on Page ACVSMR 000248?</p>	<p style="text-align: right;">282</p> <p>1 purpose. Is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. And is this an accurate statement of those</p> <p>4 activities?</p> <p>5 A. It's a generally accurate statement, yes.</p> <p>6 I'd say they've evolved. As medicine changes,</p> <p>7 language changes.</p> <p>8 Q. Okay. Let me ask you to look at Page Bates</p> <p>9 Stamp 251. In the middle of the paragraph you've</p> <p>10 see a paragraph marked 7, and under it it says</p> <p>11 "Homecoming Farm works primarily with." Do you see</p> <p>12 that?</p> <p>13 A. Yes.</p> <p>14 Q. And then one of the organizations listed is</p> <p>15 the American Veterinarian Medical Association. Do</p> <p>16 you see that?</p> <p>17 A. Yes.</p> <p>18 Q. What work was Homecoming Farm doing with</p> <p>19 the American Veterinarian Medical Association in</p> <p>20 1992?</p> <p>21 A. By forming in order to serve its</p> <p>22 membership.</p> <p>23 Q. Did you have any kind of formal arrangement</p> <p>24 with the American Veterinarian Medical Association?</p>

<p style="text-align: right;">283</p> <p>1 A. No.</p> <p>2 Q. Did you contact them and tell them you were</p> <p>3 forming to serve its membership?</p> <p>4 A. No.</p> <p>5 Q. Did I ask that question poorly? Did you</p> <p>6 contact the AVMA to announce to them that you were</p> <p>7 forming in order to serve their membership?</p> <p>8 A. No.</p> <p>9 Q. At the time of this document, was it your</p> <p>10 intent to form a recognized veterinary specialty</p> <p>11 organization under the AVMA?</p> <p>12 A. At the time of creating this document, it</p> <p>13 was my intent to conduct the research, develop the</p> <p>14 educational programs, and based on the outcome of</p> <p>15 our results, to have it lead, if it would, to</p> <p>16 perhaps their recognition of our programs.</p> <p>17 Q. And what form -- what form of recognition</p> <p>18 were you thinking of? Are there other kinds of</p> <p>19 forms, other than being an RVSO?</p> <p>20 A. You know what? I really don't know. I</p> <p>21 would have to have the AVMA book from this time</p> <p>22 period. Let me give you an example: contributing</p> <p>23 to their conferences, offering some of our workshops</p> <p>24 to its members, providing clinical rotations for</p>	<p style="text-align: right;">285</p> <p>1 Q. And did they become the mark for all the</p> <p>2 ACVSMR clinical seminars?</p> <p>3 A. Yes.</p> <p>4 Q. And at the time -- I know you had the</p> <p>5 capacity to do other things -- what programs still</p> <p>6 existed of Homecoming Farm that were not under the</p> <p>7 umbrella of the ACVSMR project?</p> <p>8 A. I can give you a few examples.</p> <p>9 Q. Please.</p> <p>10 A. But again, from year to year, I can't tell</p> <p>11 you which project was done in which year.</p> <p>12 Q. I'm happy with the examples for now.</p> <p>13 A. I can give you some examples. In my</p> <p>14 travels, since -- when I do teaching, I have offered</p> <p>15 ACVSMR educational programs at equine rescue</p> <p>16 organizations or veterinary schools in other</p> <p>17 countries. In connection with the relationships</p> <p>18 that I have made through those efforts, I'm very</p> <p>19 often contacted by colleagues, horsemen, in some</p> <p>20 cases governmental agencies, to ask if through</p> <p>21 Homecoming Farm we would be able to offer assistance</p> <p>22 in some of the following ways: to raise funds to</p> <p>23 help animals following natural disasters or disease</p> <p>24 outbreaks.</p>
<p style="text-align: right;">284</p> <p>1 veterinary students that are in AVMA-accredited</p> <p>2 veterinary schools where the rotations that the</p> <p>3 students did at my farm actually was something that</p> <p>4 they got credit for as course content. So, in a</p> <p>5 way, that is serving the AVMA.</p> <p>6 Q. As of the time of this document's creation,</p> <p>7 though, none of those programs existed yet; is that</p> <p>8 correct?</p> <p>9 A. '92? Yes, we already had students at the</p> <p>10 farm.</p> <p>11 Q. You had students.</p> <p>12 A. Yes.</p> <p>13 Q. Help me out with this: When you created</p> <p>14 the ACVSMR project in 1995 or 1996, did Homecoming</p> <p>15 Farm still have projects that were not ACVSMR</p> <p>16 projects?</p> <p>17 A. We still had the capacity to do other</p> <p>18 projects, and depending year to year is whether or</p> <p>19 not we were called upon to do those other projects.</p> <p>20 Q. Is it fair to say that at that point ACVSMR</p> <p>21 became the mark for all Homecoming Farm educational</p> <p>22 projects?</p> <p>23 A. For the educational projects, I'd say</p> <p>24 that's accurate.</p>	<p style="text-align: right;">286</p> <p>1 I'll give you an example of that. In</p> <p>2 England there was an outbreak of hoof and mouth</p> <p>3 disease. I can't remember the timing; let's say it</p> <p>4 was approximately ten years ago, maybe a little bit</p> <p>5 more.</p> <p>6 Q. I remember.</p> <p>7 A. Exactly. So I happened to be over in</p> <p>8 England teaching and consulting, and because of the</p> <p>9 outbreak of the disease, it impacted what we could</p> <p>10 do, because horses could no longer even walk across</p> <p>11 a road if they went from one field to another</p> <p>12 because of the transmission -- the potential to</p> <p>13 transmit the disease. Local constables were going</p> <p>14 around and asking farmers to voluntarily give over</p> <p>15 their shotguns because the suicide rate was up so</p> <p>16 high because the farmer would have a barnful of</p> <p>17 sheep, the beautiful pasture is 20 feet across the</p> <p>18 road, and he wouldn't be able to --</p> <p>19 So what Homecoming Farm did is, it</p> <p>20 helped to ask foundations that had helped us, ask</p> <p>21 philanthropists that had helped us, if they would</p> <p>22 donate money directly to the causes in England. So</p> <p>23 we were very helpful in that way.</p> <p>24 Q. So Homecoming Farm -- I'm sorry. I</p>

<p style="text-align: right;">287</p> <p>1 interrupted you. I did not mean to.</p> <p>2 A. So that's just one example of a project</p> <p>3 involving an animal disaster, if you will, or a need</p> <p>4 in the world that Homecoming Farm addressed.</p> <p>5 And also, we were able to network to</p> <p>6 send some students over to help, you know, during</p> <p>7 that disease outbreak.</p> <p>8 Q. And I saw in some document that you were a</p> <p>9 finalist for some award offered by -- is it a</p> <p>10 pharmaceutical company or Ralston Purina or someone</p> <p>11 that offered an award? Do you recall what I'm</p> <p>12 talking about? Was it for that work?</p> <p>13 A. No, that would be -- I believe you're</p> <p>14 referring to the Bayer Legend of the Year Award.</p> <p>15 Q. The pharmaceutical company. It sounds</p> <p>16 right.</p> <p>17 Let me ask you another question: Who is</p> <p>18 Mary Marquez?</p> <p>19 A. Mary was the secretary for a gentleman</p> <p>20 named Neil Ayer, who owned a farm in Hamilton where</p> <p>21 I kept my horses, and he was very helpful to me and</p> <p>22 encouraging to me in starting up a nonprofit</p> <p>23 organization to do my work.</p> <p>24 Q. And she was on the board of the original</p>	<p style="text-align: right;">289</p> <p>1 A. M-a-r-a-n-h-a-o.</p> <p>2 Q. And the first name?</p> <p>3 A. Oh, Andressa.</p> <p>4 MR. SARROUF: If you'll excuse me.</p> <p>5 MR. KLUFT: Very nice to meet you.</p> <p>6 (Mr. Sarrouf left the deposition.)</p> <p>7 Q. Is Andressa a man or a woman?</p> <p>8 A. A woman.</p> <p>9 Q. And how long did she serve on the board?</p> <p>10 A. I don't recall. I'd need to get the series</p> <p>11 of board members.</p> <p>12 Q. Do you recall approximately the time</p> <p>13 period?</p> <p>14 A. I don't.</p> <p>15 Q. Was it in the 1990s, or was it in the</p> <p>16 aughts?</p> <p>17 A. I would need the paperwork.</p> <p>18 Q. Approximately how long, if you recall, did</p> <p>19 Andressa served on the board?</p> <p>20 A. I don't recall.</p> <p>21 Q. Have any other veterinarians ever served on</p> <p>22 the board?</p> <p>23 A. I would need to consult the paperwork.</p> <p>24 There have been many veterinarians on advisory</p>
<p style="text-align: right;">288</p> <p>1 Homecoming Farm?</p> <p>2 A. She was on the original --</p> <p>3 Q. Or the original board.</p> <p>4 A. Just to file the papers, exactly, for a</p> <p>5 corporation.</p> <p>6 Q. And having her there was a good way to</p> <p>7 maintain the relationship with that person that she</p> <p>8 worked for?</p> <p>9 A. I don't understand the question.</p> <p>10 Q. Why was she on the board?</p> <p>11 A. Well, Neil asked her.</p> <p>12 Q. And who is Heidi Ford?</p> <p>13 A. Heidi Ford was a horseman in Massachusetts</p> <p>14 at the time.</p> <p>15 Q. And I'm sorry, I'm referring to Page</p> <p>16 No. 252. I'm not trying to hide the ball on you.</p> <p>17 Are either of them veterinarians?</p> <p>18 A. No.</p> <p>19 Q. Other than yourself, has there ever been a</p> <p>20 veterinary on the board of Homecoming Farm?</p> <p>21 A. Yes.</p> <p>22 Q. And who was that?</p> <p>23 A. I believe Andressa Maranhao.</p> <p>24 Q. Can you spell that, please?</p>	<p style="text-align: right;">290</p> <p>1 boards to us, so I don't know if you're referring</p> <p>2 specifically to the corporate board.</p> <p>3 Q. I'm currently referring to the corporate</p> <p>4 board. I'll ask you about the advisory board in a</p> <p>5 second.</p> <p>6 A. Okay.</p> <p>7 Q. So other than Andressa, are you aware,</p> <p>8 sitting here today, of any other veterinarians that</p> <p>9 have been on the corporate board?</p> <p>10 A. I can't recall now, but perhaps, yes --</p> <p>11 Irineu Palmeira.</p> <p>12 Q. And where does Andressa practice?</p> <p>13 A. Andressa is in Florida in the winter and</p> <p>14 Brazil in the summer.</p> <p>15 Q. Is Andressa also a client of your private</p> <p>16 practice?</p> <p>17 A. No.</p> <p>18 Q. How do you know her?</p> <p>19 A. She was a student.</p> <p>20 Q. Of? I'm sorry, a student of you?</p> <p>21 A. Of ACVSMR.</p> <p>22 Q. When?</p> <p>23 A. In the 2000s, I believe.</p> <p>24 Q. Did she became a board member after she was</p>

<p style="text-align: right;">291</p> <p>1 a student?</p> <p>2 A. I believe, yes.</p> <p>3 Q. And then Mr. Palmeira?</p> <p>4 A. Dr. Palmeira.</p> <p>5 Q. He?</p> <p>6 A. Yes.</p> <p>7 Q. Where is he located?</p> <p>8 A. In Brazil at this time.</p> <p>9 Q. Was Dr. Palmeira also a student at ACVSMR?</p> <p>10 A. Yes.</p> <p>11 Q. And did he become a board member after he</p> <p>12 became a student?</p> <p>13 A. I believe so, yes. Well, if he became a</p> <p>14 board member. He's been an advisory board member,</p> <p>15 and I need to look at that paperwork.</p> <p>16 Q. Anybody else you can think of that's been a</p> <p>17 veterinary that's served on the board? On the</p> <p>18 corporate board.</p> <p>19 A. Not that I can recall as I sit here.</p> <p>20 Q. I see here Lauren Kingston was on the</p> <p>21 original board; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. So she was on for a very long time; is that</p> <p>24 right?</p>	<p style="text-align: right;">293</p> <p>1 Q. All lists that you have in your possession?</p> <p>2 In other words -- and I say "all lists" meaning the</p> <p>3 board changes over time?</p> <p>4 A. Yes.</p> <p>5 Q. The advisory board. Any list of advisory</p> <p>6 board members at any one time has been produced, if</p> <p>7 you still have it?</p> <p>8 A. Yes.</p> <p>9 Q. When did the advisory board first come into</p> <p>10 existence?</p> <p>11 A. Well, really, before the formation of</p> <p>12 Homecoming Farm as a corporate entity, I had</p> <p>13 advisers to help me to create a structure and to</p> <p>14 decide whether or not to go ahead. So I'd say that</p> <p>15 there have been advisory boards for Homecoming Farm</p> <p>16 since before we incorporated.</p> <p>17 Q. And does the corporate board vote on the</p> <p>18 members of the advisory board?</p> <p>19 A. No.</p> <p>20 Q. They're selected by you?</p> <p>21 A. They're -- they generally present</p> <p>22 themselves.</p> <p>23 Q. Are they given any kind of letter or</p> <p>24 correspondence welcoming them to the board?</p>
<p style="text-align: right;">292</p> <p>1 A. No. Those are the incorporators.</p> <p>2 Q. I see.</p> <p>3 A. So we rotated. Members rotated on and off</p> <p>4 of the board.</p> <p>5 Q. Now, your advisory board, can you describe</p> <p>6 what that is?</p> <p>7 A. Depending on what project we have that</p> <p>8 we're currently working on and developing, I ask</p> <p>9 individuals that I believe will be able to inform</p> <p>10 that project in a way that will help us.</p> <p>11 Q. And do those individuals meet together as a</p> <p>12 group?</p> <p>13 A. No.</p> <p>14 Q. Is there a list of advisory board members</p> <p>15 anywhere in existence?</p> <p>16 A. Not a complete list, no.</p> <p>17 Q. Is there an incomplete list?</p> <p>18 A. Well, that information was, as I recall,</p> <p>19 part of my document production. And I recall seeing</p> <p>20 references to advisory board members as I was</p> <p>21 copying documents or....</p> <p>22 Q. So if there is a list of advisory board</p> <p>23 members, it's been produced; is that right?</p> <p>24 A. Yes, it has.</p>	<p style="text-align: right;">294</p> <p>1 A. No.</p> <p>2 Q. When you came up with the name ACVSMR, or</p> <p>3 American College of Veterinary Sports Medicine and</p> <p>4 Rehabilitation, at that time you were coming up with</p> <p>5 that name did you consider other names?</p> <p>6 A. If by that do you mean did I make a list of</p> <p>7 names and then choose that one, no.</p> <p>8 Q. Did you ever have a draft document that had</p> <p>9 another name on it?</p> <p>10 A. No.</p> <p>11 Q. And just to go over something Mark went</p> <p>12 over yesterday, Mr. Dickison went over -- I'm</p> <p>13 sorry --</p> <p>14 MR. DICKISON: You can refer to me as</p> <p>15 Mark.</p> <p>16 Q. You were aware at the time that the AVMA --</p> <p>17 and by "at the time," I mean in 1995 and 1996 -- you</p> <p>18 were aware that they already had a recognized</p> <p>19 veterinary specialty organization also; correct?</p> <p>20 A. Yes.</p> <p>21 Q. And that many of those veterinary specialty</p> <p>22 organizations began -- their titles began with the</p> <p>23 words "American College of Veterinary"; correct?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">295</p> <p>1 Q. Are you aware of any organization starting</p> <p>2 with the words "American College of Veterinary" that</p> <p>3 are not affiliated with the AVMA other than your own</p> <p>4 organization?</p> <p>5 A. No.</p> <p>6 Q. You mentioned in part yesterday that the</p> <p>7 plan -- that part of the name -- and this is, again,</p> <p>8 another instance where you correct me if I'm</p> <p>9 misstating what you said. But I think you said that</p> <p>10 part of the reason you came up with the name was</p> <p>11 that it was descriptive of what you were doing in</p> <p>12 your plan for the future. Is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And again I'm asking: Did that plan for</p> <p>15 the future at the time involve recognition by the</p> <p>16 AVMA of a veterinary specialty?</p> <p>17 A. No.</p> <p>18 Q. When was the first time that Homecoming</p> <p>19 Farm offered a program to the public under the name</p> <p>20 ACVSMR? I know there's the Equine Excellence</p> <p>21 Initiative that was a piece of paper that was passed</p> <p>22 around. I'm talking about a public event, a</p> <p>23 program, that people could attend.</p> <p>24 A. I don't recall to be able to answer you</p>	<p style="text-align: right;">297</p> <p>1 person's flyer may be another person's white paper.</p> <p>2 I just want to understand what you mean by</p> <p>3 "brochure."</p> <p>4 A. It was just a paper-sized document, and it</p> <p>5 contained information, just general information,</p> <p>6 about our programs. I'd need to look at the</p> <p>7 document.</p> <p>8 Q. Was one of those documents called General</p> <p>9 History of Homecoming Farm, in your recollection?</p> <p>10 A. I don't think so, no.</p> <p>11 Q. I'm going to show you some documents today.</p> <p>12 If you see one of those things you are referring to</p> <p>13 as a brochure, will you tell me, please, if you</p> <p>14 remember?</p> <p>15 A. Sure, yes.</p> <p>16 Q. Thank you. Are there any brochures that</p> <p>17 existed as of that time that you still have and have</p> <p>18 not produced?</p> <p>19 A. No.</p> <p>20 Q. Do you still have copies of all the</p> <p>21 brochures that you produced at that time?</p> <p>22 A. I'm not sure.</p> <p>23 Q. Is there anyone in particular that you're</p> <p>24 thinking of that's lost?</p>
<p style="text-align: right;">296</p> <p>1 specifically. But if it helps to give you a</p> <p>2 range --</p> <p>3 Q. Please.</p> <p>4 A. It would have been shortly after 1996.</p> <p>5 Q. Are you thinking of a lecture or a seminar,</p> <p>6 clinical seminar?</p> <p>7 A. Yes.</p> <p>8 Q. Any one in particular?</p> <p>9 A. No. That's why I don't have a specific</p> <p>10 memory. But I began using ACVSMR for the programs</p> <p>11 starting back then.</p> <p>12 Q. I believe yesterday, when Mr. Dickson</p> <p>13 asked you how you were using the mark prior to</p> <p>14 January of 2003, you mentioned the Equine Excellence</p> <p>15 Initiative, and you also mentioned you used the word</p> <p>16 "brochures." Do you recall using that word</p> <p>17 yesterday?</p> <p>18 A. Yes.</p> <p>19 Q. What are those brochures? Can you describe</p> <p>20 them?</p> <p>21 A. Actually, I produced them.</p> <p>22 Q. And can you describe them so I understand</p> <p>23 what you mean by "brochures"? I'm not doubting you.</p> <p>24 It's just that one person's brochure may be another</p>	<p style="text-align: right;">298</p> <p>1 A. Well, no, but let me explain my thought</p> <p>2 process. When a brochure is created for -- that</p> <p>3 describes our programs, as those programs may</p> <p>4 change, that brochure would be changed to reflect</p> <p>5 that. So if we add -- I'm thinking of the equine</p> <p>6 health care manager program that we have. So there</p> <p>7 is a point at which that was added to the ACVSMR</p> <p>8 brochure. So whether I had the predecessor -- and</p> <p>9 I'm just giving you an example of one program that</p> <p>10 would have been added to it. I would not have kept</p> <p>11 copies of the old brochure because I was updating</p> <p>12 it.</p> <p>13 Q. You didn't have a computer at the time when</p> <p>14 these brochures were first distributed; correct?</p> <p>15 A. No.</p> <p>16 Q. Who kept the copies that were to be</p> <p>17 updated? They were on a computer, I presume;</p> <p>18 correct?</p> <p>19 A. That would be Eleanor Code.</p> <p>20 Q. And were they kept on her home computer?</p> <p>21 A. I'm not sure.</p> <p>22 Q. Can you please spell Eleanor Code?</p> <p>23 A. E-l-e-a-n-o-r C-o-d-e.</p> <p>24 Q. That was for the reporter. He asked me</p>

<p style="text-align: right;">299</p> <p>1 that during the break.</p> <p>2 And who is she?</p> <p>3 A. Eleanor has been a board member, and she</p> <p>4 has been very helpful in our development of</p> <p>5 fundraising materials.</p> <p>6 Q. What is her profession?</p> <p>7 A. Eleanor was an executive secretary to</p> <p>8 Mickey Rooney.</p> <p>9 Q. That's one of the best deposition answers</p> <p>10 I've ever heard. And was Mickey Rooney ever located</p> <p>11 in Massachusetts?</p> <p>12 A. No, California.</p> <p>13 Q. She relocated --</p> <p>14 A. Actually, I do not know the background of</p> <p>15 Mickey Rooney.</p> <p>16 Q. Let me object to my own question on that</p> <p>17 grounds. I apologize. I was just curious.</p> <p>18 And when did she start becoming involved</p> <p>19 with Homecoming Farm?</p> <p>20 A. I don't recall.</p> <p>21 Q. Let me show you a document. I'm going to</p> <p>22 mark this as 18.</p> <p>23 (Exhibit 18, AAEP Report, marked for</p> <p>24 identification.)</p>	<p style="text-align: right;">301</p> <p>1 Q. It refers to something a lawyer said here.</p> <p>2 Without telling me anything a lawyer said, what</p> <p>3 lawyer was this referring to, if you remember? I'm</p> <p>4 specifically referring to where it says, "Lawyer</p> <p>5 said send one-page request."</p> <p>6 A. I don't recall. 1997?</p> <p>7 Q. Did you have a lawyer for Homecoming Farm</p> <p>8 in 1997?</p> <p>9 A. No.</p> <p>10 Q. On the next page it talks about estate</p> <p>11 planning in your notes, for ACVSMR. What does that</p> <p>12 refer to? And again, is this your handwriting page</p> <p>13 as well?</p> <p>14 A. I believe so.</p> <p>15 Q. Do you have any recollection of what</p> <p>16 "estate planning" refers to?</p> <p>17 A. I believe that what I was referring to here</p> <p>18 is, in our solicitation of funds to support</p> <p>19 Homecoming Farm, that by going to development</p> <p>20 conferences and fundraising seminars, which I did to</p> <p>21 try to learn about the process of fundraising, I</p> <p>22 became generally informed about estate planning and</p> <p>23 how nonprofit organizations can benefit from making</p> <p>24 their programs known. So that's what I would say</p>
<p style="text-align: right;">300</p> <p>1 Q. Here is the official exhibit copy. I'm not</p> <p>2 going to ask you about any of the contents of these</p> <p>3 articles.</p> <p>4 A. Okay.</p> <p>5 Q. What I'm going to ask you is: Is this one</p> <p>6 of the documents you produced in your production?</p> <p>7 A. Yes.</p> <p>8 Q. And when you were talking about going</p> <p>9 through old magazines and seeing what you had from</p> <p>10 the period, are you referring to documents such as</p> <p>11 this?</p> <p>12 A. Yes.</p> <p>13 Q. And if you look on the second page, is that</p> <p>14 your handwriting?</p> <p>15 A. Yes.</p> <p>16 Q. And it says on the side, "Sent Equine</p> <p>17 Excellence Initiative." Is that --</p> <p>18 Is this one of the ways you kept records</p> <p>19 of who you sent materials to?</p> <p>20 A. What it represents is a record of who I</p> <p>21 believed we should send materials to, and sometimes</p> <p>22 we just had. But I would keep these kinds of</p> <p>23 brochures if I thought that it would be something</p> <p>24 useful to us in the future.</p>	<p style="text-align: right;">302</p> <p>1 the general context is there.</p> <p>2 Q. Okay. So this was part of your part of</p> <p>3 sort of brainstorming ideas for fundraising for</p> <p>4 ACVSMR. Is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. If you turn to the next page, it says</p> <p>7 Fellowship Application. I'm referring once again to</p> <p>8 the handwritten notes. Are these yours as well?</p> <p>9 A. Yes.</p> <p>10 Q. It says in handwriting, "Fellowship</p> <p>11 application -- Draft for ACVSMR." Then there's a</p> <p>12 little dash again, and it says "Diff types?" And</p> <p>13 then "M.D.'s?" Were you at some point planning on</p> <p>14 having a program for M.D.'s as part of the ACVSMR?</p> <p>15 A. No.</p> <p>16 Q. What does this refer to here?</p> <p>17 A. To the best of my recollection, going</p> <p>18 back -- how many years is this?</p> <p>19 Q. 1997.</p> <p>20 A. It would be my best guess -- it's not a</p> <p>21 direct memory.</p> <p>22 MR. LYONS: I don't want you to guess,</p> <p>23 and neither does Mr. Kluft. Give him your best</p> <p>24 recollection.</p>

<p style="text-align: right;">303</p> <p>1 THE WITNESS: Okay.</p> <p>2 A. My best recollection is the note is a note</p> <p>3 to myself to think about how M.D.'s create their</p> <p>4 fellowships.</p> <p>5 Q. And my understanding from that is the idea</p> <p>6 is you're looking at how the human medical</p> <p>7 profession works in order to model your plans for</p> <p>8 ACVSMR.</p> <p>9 A. Yes.</p> <p>10 Q. And you mentioned that you were -- I think</p> <p>11 this is an organization that you mentioned you were</p> <p>12 a member of yesterday, the American Association of</p> <p>13 Equine Practitioners. Is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. Are you still a member?</p> <p>16 A. No.</p> <p>17 Q. Are they a veterinary organization?</p> <p>18 A. They're a membership organization, and I</p> <p>19 don't know whether they admit nonveterinarians as</p> <p>20 well.</p> <p>21 Q. But their members tend to be veterinarians;</p> <p>22 is that right?</p> <p>23 A. Yes.</p> <p>24 Q. And are you still a member?</p>	<p style="text-align: right;">305</p> <p>1 opposing the currently proposed Federal legislation</p> <p>2 that I provided expert witness testimony before</p> <p>3 Congress.</p> <p>4 Q. I see. And have they presented publicly a</p> <p>5 reason for their opposition?</p> <p>6 A. I don't know.</p> <p>7 Q. But your proposal before Congress was</p> <p>8 within the last year; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. So their option to that proposal was not</p> <p>11 the basis for your leaving the organization.</p> <p>12 A. No.</p> <p>13 Q. When did you leave the organization?</p> <p>14 A. I believe that it was probably around 1999</p> <p>15 or maybe 2000. And the issue that had come up or</p> <p>16 the event that had brought all of this into focus</p> <p>17 for me was my working as -- being retained as an</p> <p>18 expert witness by the Ohio Attorney General's Office</p> <p>19 in a prosecution that they brought against</p> <p>20 veterinarians who work with race horses and in the</p> <p>21 general issues related to the standards of practice</p> <p>22 being applied equally regardless of the nature of</p> <p>23 the use of the patient.</p> <p>24 Q. You said yesterday you've never been</p>
<p style="text-align: right;">304</p> <p>1 A. No.</p> <p>2 Q. And what are the circumstances that led to</p> <p>3 your leaving?</p> <p>4 A. The circumstances related to a difference</p> <p>5 of opinion that I have with the policies or with</p> <p>6 many of the individuals who have held positions in</p> <p>7 the AAEP. I have a difference of opinion over</p> <p>8 ethics as it applies to the practice of sports</p> <p>9 medicine with horses, particularly at racetracks,</p> <p>10 but also with other sports. I had a difference of</p> <p>11 opinion over the veterinary client-patient</p> <p>12 relationship and abiding by the standards of</p> <p>13 practice for racetrack practitioners, especially</p> <p>14 over the years of drugs.</p> <p>15 Q. Are you finished?</p> <p>16 A. Yes.</p> <p>17 Q. Can I ask, did the AAEP take a public</p> <p>18 position in favor of drugs? Or are you referring to</p> <p>19 the personal -- your knowledge of the personal</p> <p>20 activities of individual members?</p> <p>21 A. I would need to review all of the</p> <p>22 information that they have put out on that topic to</p> <p>23 be able to answer that question. As I sit here --</p> <p>24 They have certainly come out as a group</p>	<p style="text-align: right;">306</p> <p>1 deposited before. You were not deposited in that</p> <p>2 matter?</p> <p>3 A. I don't think so. I just remember</p> <p>4 testifying.</p> <p>5 Q. You testified before what body?</p> <p>6 A. A hearing.</p> <p>7 Q. I'm not asking you to be a lawyer, but was</p> <p>8 it a State of Ohio body? Is it a governmental body</p> <p>9 of the State of Ohio? Or was it a private --</p> <p>10 A. It would be a governmental --</p> <p>11 Q. A governmental organization.</p> <p>12 A. Yes.</p> <p>13 Q. And it was not in a court. There wasn't a</p> <p>14 judge there, wasn't there?</p> <p>15 A. There was.</p> <p>16 Q. Oh, there was a judge.</p> <p>17 A. Yes.</p> <p>18 Q. And have you ever given testimony other</p> <p>19 than that?</p> <p>20 A. Yes.</p> <p>21 Q. And what were the circumstances of that</p> <p>22 testimony.</p> <p>23 A. Before a grand jury. And the circumstances</p> <p>24 of that related to a prosecution brought -- or a</p>

<p style="text-align: right;">307</p> <p>1 case developed by the FBI. This was in Chicago. 2 And it was a RICO case. But the issues involved -- 3 or part of the story -- I guess I'll tell it that 4 way -- involved people who were having their horses 5 killed in order to be able to collect the mortality 6 insurance. And the case was actually the Helen 7 Brock murder case. So my testimony was necessary in 8 order to help the grand jury be able to understand 9 quite frankly how easy it is to euthanize a horse, 10 make a false insurance claim, and collect the money. 11 Q. And approximately when was that testimony? 12 A. That would have been probably in -- oh, in 13 Chicago? 14 Q. Yes. 15 A. Yeah, I don't recall. I was at Homecoming 16 Farm in New Hampshire, so it's somewhere in there. 17 Q. Who does the fundraising for Homecoming 18 Farm? 19 A. I do, mostly. 20 Q. Is the fundraising function at Homecoming 21 Farm separated between ACVSMR and other Homecoming 22 Farm programs? In other words, do you seek 23 different grants for Homecoming Farm than you do for 24 an ACVSMR project?</p>	<p style="text-align: right;">309</p> <p>1 Q. I think that's a very fair distinction, and 2 I meant the first kind of fundraising: development, 3 the kind of person you'd hire for development if you 4 had the money to hire a development person. 5 A. Yes. 6 Q. I'm talking about grant writing, and I'm 7 talking about, not only grant writing, but the 8 occasional lunch with a wealthy potential donor. 9 I'm talking about that kind of development. How 10 much time do you devote to that kind of development? 11 MS. KLIEMAN: When? 12 MR. KLUFT: That's a fair question. 13 Q. In 2012. 14 A. Did you ask in a week? 15 Q. You know, if there's an easy way for you to 16 quantify, you can give it to me in whatever way you 17 think is -- I'm trying to get a sense of what 18 percentage of your time is devoted to that. If it's 19 easier to say a month, a year, a week, however you 20 want. 21 A. I'm afraid I can't recall going back over 22 an entire year how much time I spent. 23 Q. And is that -- would that be the same 24 answer for any particular year?</p>
<p style="text-align: right;">308</p> <p>1 A. Homecoming Farm is the entity that can 2 request funds. ACVSMR is not a 501(c)(3). 3 Q. Other than asking as a fiscal sponsor, does 4 Homecoming Farm raise any of its own funds for 5 projects that are not related to the ACVSMR? 6 A. Yes. 7 Q. And you do that as well? 8 A. Yes. 9 Q. How many hours do you devote to 10 fundraising? That's an unfair question, because I 11 didn't give you a time period. Let's say -- do you 12 have any sense in a week how many of it you devote 13 to fundraising? 14 A. I don't. And I'd like to offer a context, 15 as I'm hearing your question. "Devoted to 16 fundraising" conjures up in my mind the work of a 17 development professional, so putting proposals 18 together, things like that. But fundraising, as the 19 founder of an organization, I can tell you takes 20 place in your communications with clients. It takes 21 place when you give presentations in a room that are 22 educational. 23 So I'm trying to respond accurately to 24 your question, and it's sometimes hard to --</p>	<p style="text-align: right;">310</p> <p>1 A. Yes. 2 Q. Are there records that you keep that would 3 indicate how much time you spent on that activity? 4 A. No. 5 Q. I think you mentioned that Eleanor Code 6 helps you with fundraising? 7 A. Yes. 8 Q. What is her function? 9 A. She has in the past. Eleanor helped to 10 send the Equine Excellence Initiative to countless 11 recipients. She helped to draft, if you will, 12 boilerplate letters for -- "Thank you for your 13 donation" sort of letters, things like that. And 14 she distributed or sent out a lot of the materials. 15 For example, when I would identify 16 additional sources that I thought might benefit us 17 to either send a copy of the Equine Excellence 18 Initiative or to inquire about their giving programs 19 and guidelines, then very often Eleanor, because she 20 had a desk job, would be able to do that for me. 21 Q. And what was her job at the time? 22 A. She was Mickey Rooney's secretary. 23 Q. Oh, she still served that function. So she 24 was still located in California?</p>

<p style="text-align: right;">311</p> <p>1 A. Oh, yes. 2 Q. I'm sorry. I misunderstood. And she did 3 this as a volunteer? 4 A. Yes. 5 Q. And what were the circumstances under which 6 you met her? 7 A. I met Eleanor because a friend of mine 8 called me to say -- I'm trying to remember the name 9 of the friend -- called me to say, "That was great. 10 How did you meet Mickey Rooney? This is 11 unbelievable. You made it, Sheila. You're going to 12 launch this now." And I said, "That sounds great. 13 I don't know what you're talking about." And he had 14 done a talk show in connection with one of the 15 movies that he was promoting, and he was asked about 16 his history with horses and "Are you still around 17 horses" and things like that. And apparently Mickey 18 Rooney had heard about Homecoming Farm and the 19 Equine Excellence Initiative, because I'm told he 20 gave it quite a pitch. 21 Q. Do you know what talk show that was on? 22 A. I don't. And this was before -- and 23 naturally, I tried to get a copy of this. So I 24 contacted his office, and that's how I met Eleanor</p>	<p style="text-align: right;">313</p> <p>1 ask you enough questions about this document to make 2 that worth it. I'll try to tell you in advance on 3 the others. 4 Is this the Johnson &amp; Johnson proposal 5 you were referring to earlier? 6 A. It's the cover letter. 7 Q. I'm sorry; it's the cover letter. 8 A. Yes. 9 Q. And the following pages, is that the budget 10 that was sent along with the proposal? 11 A. It was the projected budget for what I was 12 asking them to help support. 13 Q. And the thing you were asking them to help 14 support was the American College of Sports -- of 15 Veterinary Sports Medicine and Rehabilitation; 16 correct? 17 A. Yes. 18 Q. Is this the first grant that you ever 19 sent -- that you ever applied for for the ACVSMR 20 project? 21 A. I believe it is, yes. 22 Q. From this point forward, are you aware of 23 any grant you applied for for Homecoming Farm that 24 was not for the ACVSMR project?</p>
<p style="text-align: right;">312</p> <p>1 Code. 2 Q. And do you know how -- is she still 3 involved in fundraising? 4 A. Eleanor Code died. 5 Q. And when was that? 6 A. I don't recall. 7 Q. Was it within the last year? 8 A. No. It was several years ago. It was, I'd 9 say, more than five years ago. I don't recall. 10 Q. I'm sorry to hear that. Did anyone take 11 over her volunteer fundraising duties? 12 A. Not officially. 13 Q. Anybody unofficially take them over? 14 A. I've had individuals help me. For example, 15 they will send me potential funding sources when 16 they come across them. 17 Q. I want to show you a document that I think 18 you referred to earlier. 19 MR. KLUFT: Can you please mark this. 20 (Exhibit 19, letter, marked for 21 identification.) 22 Q. I'll ask you to just look at the official 23 marked copy, please. I should have said earlier -- 24 I didn't want to interrupt you -- I'm not going to</p>	<p style="text-align: right;">314</p> <p>1 A. Yes. 2 Q. I'll move on. I'm sorry. I should have 3 stopped you earlier. I wasn't going to ask you 4 about the contents. 5 MR. KLUFT: Anyone want to take a break? 6 MS. KLIEMAN: Whenever you're ready for 7 lunch. 8 MR. KLUFT: I have a few more grants I 9 want to show her, mostly to authenticate them, and 10 then we can stop. Is that fair enough? But anytime 11 you want to stop, that's fine. 12 (Exhibit 20, William and Charlotte Parks 13 Foundation for Animal Welfare grant proposal, marked 14 for identification.) 15 Q. I have a few questions about this. Is this 16 also a grant that you wrote for the ACVSMR? Or a 17 grant proposal, I should say, that you wrote for the 18 ACVSMR? 19 A. Yes. 20 Q. If you look at the handwriting on the first 21 page, is that all yours? Is some of it yours and 22 some of it not yours? 23 A. It's all mine. 24 Q. You have beautiful handwriting, by the way.</p>

<p style="text-align: right;">315</p> <p>1 Now, if you look at the brief narrative 2 of proposal. Do you see that? 3 A. Yes. 4 Q. It says, "This project involves developing 5 a curriculum for new paraprofessionals to work in 6 vet medicine and administrative costs to organize 7 the establishment of rehabilitation as a service and 8 specialty for veterinary ends." I think that was 9 cut off. 10 A. Probably. 11 Q. "Through the ACVSMR - our educational 12 program." 13 A. Yes. 14 Q. Did that educational program, was that only 15 in reference to the second part of this, the 16 veterinarians, or was that also in reference to the 17 paraprofessionals? 18 A. The way it reads, it appears to be for 19 both. 20 Q. Well, obviously these were your projects; 21 correct? Are they both within the ACVSMR? 22 A. Could you be.... 23 Q. Well, there's a program here for new 24 paraprofessionals; correct?</p>	<p style="text-align: right;">317</p> <p>1 Q. Well, you drafted this; correct? 2 A. Yes. 3 Q. And at the time you were trying to be as 4 accurate as you could based on the knowledge you had 5 at the time. 6 A. Yes. 7 Q. Let me put another document in front of 8 you. 9 (Exhibit 21, request for funding, marked 10 for identification.) 11 MR. KLUFT: I have a lot of questions 12 about this document. Do you want to break for lunch 13 now? 14 MR. LYONS: If it's 10 minutes' worth of 15 questions, let's go to 1:00. If it's 20 minutes, 16 let's break. 17 MR. KLUFT: I don't mind stopping in the 18 middle. 19 Q. I'll just ask you to take a look at this. 20 I'm going to ask you some specific questions; so if 21 at any time you want to read through more for 22 context, just let me know. 23 Is this another grant proposal that you 24 drafted for ACVSMR?</p>
<p style="text-align: right;">316</p> <p>1 A. Yes. 2 Q. And there's also a program, it seems to me, 3 for veterinarians; is that correct? 4 A. It doesn't describe it as a program, but 5 yes. 6 Q. Are they both within the ACVSMR project? 7 A. Yes. 8 Q. Can I ask you to turn to the last page of 9 this document, to your CV at the bottom, or the 10 little bio at the bottom of the last page. Do you 11 see the second sentence? If you could just read the 12 first two sentences of that bio. 13 A. Yes. 14 Q. This really goes to a question Mr. Dickison 15 was asking yesterday: Is that a fair estimate of 16 the number of patients that you had treated from 17 1995 up to the time of this document, 1998? 18 A. I would need my records to know. But I 19 would say that would be -- 20 '85. What is this? Ninety.... 21 It would be my -- I would say that is an 22 approximate number, which is what it says. So if 23 you put the term "approximate" with one thousand, 24 then yes.</p>	<p style="text-align: right;">318</p> <p>1 A. No. 2 Q. What is this? 3 A. This is a letter that -- it's a request for 4 funding, but it's not a grant proposal. Grants come 5 from grant-making organizations. 6 Q. This is to a -- I'm gathering from the 7 name, a wealthy individual. 8 A. Yes. 9 MR. LYONS: Before you put your next 10 question, I'm sorry, could we get the official 11 marked version of it? 12 MR. KLUFT: Sure. 13 MR. LYONS: I think that's it right 14 there. 15 MR. KLUFT: My apologies. 16 MR. DICKISON: To confirm, we're on 21? 17 MS. KLIEMAN: 21. 18 Q. If you look through the document -- and if 19 you need to read the whole thing, that's fine -- it 20 refers to amounts of money next to years. Do you 21 see that? So on the first page it's No. 1, 1995, 22 \$38,140. 23 A. Yes. 24 Q. And then it continues into the next page</p>

<p style="text-align: right;">319</p> <p>1 and the next page after that. Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And my question is: Is that an amount you</p> <p>4 were requesting, or is that an amount you -- is that</p> <p>5 the amount of funds that the organization had raised</p> <p>6 each year?</p> <p>7 A. I would need to see our tax returns to be</p> <p>8 able to compare how much we raised each year to the</p> <p>9 figures in this letter requesting support to answer</p> <p>10 that question.</p> <p>11 Q. Can I ask you to turn to Page 3513. About</p> <p>12 in the middle of the page do you see it says 1997,</p> <p>13 \$126,340?</p> <p>14 A. Yes.</p> <p>15 Q. And the second paragraph under that starts</p> <p>16 with, "Our ACVSMR farrier programs"?</p> <p>17 A. Yes.</p> <p>18 Q. "Our ACVSMR farrier programs began in</p> <p>19 earnest this year." By "this year" were you</p> <p>20 referring to 1997?</p> <p>21 A. It would appear so.</p> <p>22 Q. What did you mean -- you authored this</p> <p>23 document; correct?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">321</p> <p>1 A. It was developed. It hasn't yet been</p> <p>2 offered.</p> <p>3 Q. Are they planning to offer it? Do you</p> <p>4 know?</p> <p>5 A. I don't know. The....</p> <p>6 Q. I'm sorry?</p> <p>7 A. It doesn't matter. I was going to expand</p> <p>8 on it. It doesn't matter.</p> <p>9 Q. But there's no program yet.</p> <p>10 A. No.</p> <p>11 Q. Now, the last paragraph of this document --</p> <p>12 of this page; I'm sorry -- it says, "I contacted the</p> <p>13 AVMA to get their information -- to get information</p> <p>14 regarding their potential recognition of our ACVSMR</p> <p>15 programs. They will only consider veterinarians who</p> <p>16 we certify, but the need to develop all the other</p> <p>17 paraprofessional programs is essential to the</p> <p>18 long-term success of the specialty." Do you see</p> <p>19 that?</p> <p>20 A. Yes.</p> <p>21 Q. What conversation were you referring to</p> <p>22 when you said you contacted the AVMA?</p> <p>23 A. I believe, based on the date of 1997, that</p> <p>24 that would be with Dr. Park. Or it would have been</p>
<p style="text-align: right;">320</p> <p>1 Q. What did you mean by "began in earnest"?</p> <p>2 A. Again, I would need records that go back to</p> <p>3 1997 to see how many students we were working with.</p> <p>4 But to the best of my recollection, that would</p> <p>5 suggest that we had more applicants, more -- a</p> <p>6 greater ability to offer educational services.</p> <p>7 Q. Well, by "programs" were you referring to</p> <p>8 seminars conducted in Europe and several states? Is</p> <p>9 that what you meant by the programs starting?</p> <p>10 Maybe I can ask a better question. If</p> <p>11 I'm a farrier in 1997, how do I find out about the</p> <p>12 ACVSMR program for farriers?</p> <p>13 A. Actually, it was mostly word of mouth with</p> <p>14 farriers.</p> <p>15 Q. And the programs that you were offering,</p> <p>16 were they, again, like we talked about before, at</p> <p>17 other people's farms?</p> <p>18 A. Yes.</p> <p>19 Q. Now, it refers to here "Cali Tech in</p> <p>20 Pomona." Is that Michael Savoldi's college?</p> <p>21 A. Yes.</p> <p>22 Q. It talks about developing a master's degree</p> <p>23 program in farrier science. Was that ever</p> <p>24 developed?</p>	<p style="text-align: right;">322</p> <p>1 whoever the AVMA had put me in touch with when I</p> <p>2 contacted them at that time.</p> <p>3 Q. Okay. So although the date of this</p> <p>4 document, Exhibit 21, is January 23rd, 2000, this</p> <p>5 paragraph is still referring to the subheading 1997.</p> <p>6 A. Yes.</p> <p>7 Q. I'm just trying to -- because it starts</p> <p>8 to -- it starts in the past tense; and then the next</p> <p>9 sentence future tense.</p> <p>10 A. Yes.</p> <p>11 Q. So I'm just trying to make sure I</p> <p>12 understand.</p> <p>13 A. Yes.</p> <p>14 Q. What did Dr. Park, in your recollection,</p> <p>15 tell you about the fact that -- or the statement</p> <p>16 here you made that -- I'm sorry. Let me start the</p> <p>17 question again.</p> <p>18 What did Dr. Park tell you that led you</p> <p>19 to make the statement "They will only consider the</p> <p>20 veterinarians whom we certify"?</p> <p>21 A. I had described our programs to him and</p> <p>22 offered the substance that without these</p> <p>23 paraprofessionals and farriers and other members of</p> <p>24 the team, if it were, that both delivered health</p>

<p style="text-align: right;">323</p> <p>1 care and preventive services and proper management</p> <p>2 to horses to prevent injury, that -- he explained</p> <p>3 that the AVMA would only recognize a specialty</p> <p>4 organization for veterinarians only, so that these</p> <p>5 other programs that I had developed under ACVSMR</p> <p>6 would not be included in the AVMA's recognition</p> <p>7 should we decide to pursue and be successful.</p> <p>8 Q. And what would happen to those programs,</p> <p>9 then, under your vision, as you articulate here?</p> <p>10 A. They would just stay -- remain our ACVSMR</p> <p>11 programs for farriers, physiotherapists, and so</p> <p>12 forth.</p> <p>13 Q. Now, in 1998 and 1999, when you describe</p> <p>14 your efforts on the next page, it doesn't mention</p> <p>15 any further contact with the AVMA about creating a</p> <p>16 specialty. Did you have any further contact with</p> <p>17 the AVMA during those years?</p> <p>18 A. I know I contacted them again before the</p> <p>19 conference in Oregon. And I want to be very clear:</p> <p>20 This is a letter requesting support from an</p> <p>21 individual. This is not the record of Homecoming</p> <p>22 Farm or --</p> <p>23 Q. I understand.</p> <p>24 A. So I would not expect to put it there.</p>	<p style="text-align: right;">325</p> <p>1 Q. Does that refresh your memory as to how</p> <p>2 much you paid the consultants?</p> <p>3 A. Yes.</p> <p>4 Q. And that amount was \$500?</p> <p>5 A. Yes.</p> <p>6 Q. And this was the entire budget for</p> <p>7 Homecoming Farm and ACVSMR combined in 1995?</p> <p>8 A. Again, I would need to compare this with</p> <p>9 our tax records, because those are the official</p> <p>10 records for this. But yes, I believe so.</p> <p>11 Q. I guess what I'm asking is: Whether or not</p> <p>12 it's exactly reflected in the tax returns -- and I</p> <p>13 can represent to you that I'm pretty sure it is,</p> <p>14 from my memory -- this is for both the Homecoming</p> <p>15 Farm in general and for the project? There's not a</p> <p>16 separate budget for the project, is there?</p> <p>17 A. Well, there really isn't a separate entity.</p> <p>18 So we could go through and figure out whether the</p> <p>19 equipment was used for ACVSMR. But it's a budget</p> <p>20 for the Homecoming Farm project, the ACVSMR --</p> <p>21 Q. And in a way -- sorry.</p> <p>22 A. -- and whatever else we did in any</p> <p>23 particular year.</p> <p>24 Q. And I understand that it's not a fair</p>
<p style="text-align: right;">324</p> <p>1 Q. And if you take a look at Page 3517.</p> <p>2 There's a series of budgets for different years</p> <p>3 prior to 2000. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And are these -- are these the historic</p> <p>6 budgets of the Homecoming Farm for those years?</p> <p>7 A. Historic?</p> <p>8 Q. In other words, these were -- this is a</p> <p>9 grant -- this is a request in 2000 that you're</p> <p>10 making.</p> <p>11 A. Yes.</p> <p>12 Q. And so you're not -- when it says, the very</p> <p>13 first line, "Office and administration, \$500,"</p> <p>14 that's historically what -- your best estimate of</p> <p>15 what you actually spent that year; correct?</p> <p>16 A. Yes.</p> <p>17 Q. That's what I meant by "historic." You're</p> <p>18 not asking her for funds to cover previous years.</p> <p>19 A. No.</p> <p>20 Q. And No. 8 here, it says, "Consultant to</p> <p>21 create EEI." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Is that the Equine Excellence Initiative?</p> <p>24 A. Oh, yes.</p>	<p style="text-align: right;">326</p> <p>1 question for 1995, obviously, because that is when</p> <p>2 you were still developing.</p> <p>3 A. Yes.</p> <p>4 Q. But if you turn to the next page, you'll</p> <p>5 actually see some line items that specifically</p> <p>6 mention ACVSMR. Do you see that?</p> <p>7 A. Oh, yes.</p> <p>8 Q. You see there's two budget items for ACVSMR</p> <p>9 that year. One is for equipment, and one is for</p> <p>10 educational materials. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And is that an accurate or approximate</p> <p>13 reflection of the ACVSMR project budget for that</p> <p>14 year?</p> <p>15 A. Well, the research would also be included</p> <p>16 in that.</p> <p>17 Q. The research was \$61,000?</p> <p>18 A. Yes.</p> <p>19 Q. And who conducted that research?</p> <p>20 A. I did.</p> <p>21 Well, excuse me. Again, I'm getting my</p> <p>22 years mixed up. If I was working with Michael</p> <p>23 Savoldi, it would have included his contributions.</p> <p>24 Q. And was that research published anywhere?</p>

<p style="text-align: right;">327</p> <p>1 And I'm saying other than in your own literature.</p> <p>2 A. Michael published in several journals, but</p> <p>3 I did not publish.</p> <p>4 Q. And when he published in those journals,</p> <p>5 did he mention the ACVSMR?</p> <p>6 A. No, he did not.</p> <p>7 Q. What are -- what equipment do ACVSMR</p> <p>8 students -- what were they using in 1996?</p> <p>9 A. 1996, jeez.</p> <p>10 Q. Let me ask a fairer question: In general,</p> <p>11 what kind of equipment does a student need?</p> <p>12 A. Again, it depends on the year and what we</p> <p>13 were teaching, because that has changed as we have</p> <p>14 evolved and developed better methods through our</p> <p>15 research.</p> <p>16 So one example might be neuromuscular</p> <p>17 stimulation equipment. There would be camera</p> <p>18 equipment for their photo recordkeeping. It's a</p> <p>19 pretty small number.</p> <p>20 Q. Let me ask you one more question, and then</p> <p>21 I'll take a break: Do you have budgets that further</p> <p>22 itemize these numbers?</p> <p>23 A. At the time I did, but not today.</p> <p>24 MR. KLUFT: Should we break?</p>	<p style="text-align: right;">329</p> <p>1 A. I don't have a direct memory, but it would</p> <p>2 have been at the time.</p> <p>3 Q. The statement here, "ABVS guidelines must</p> <p>4 include all species that could benefit." Do you see</p> <p>5 that? It's about middle of the way through the</p> <p>6 page.</p> <p>7 A. Yes, I do.</p> <p>8 Q. Is that something that Dr. Park told you?</p> <p>9 Not necessarily in these exact words, but was that</p> <p>10 information that you received from Dr. Park?</p> <p>11 A. I believe that I recall getting that</p> <p>12 information from Dr. Park, but I don't have a direct</p> <p>13 memory.</p> <p>14 Q. And did Dr. Park, where it says "Allied</p> <p>15 certifications for paraprofs" -- I think that means</p> <p>16 paraprofessionals --</p> <p>17 A. Yes.</p> <p>18 Q. -- "not also through AVMA," is that also</p> <p>19 information that Dr. Park gave you?</p> <p>20 A. Yes.</p> <p>21 Q. You can put that away. Do you have any</p> <p>22 other notes of your conversations with Dr. Park,</p> <p>23 besides those?</p> <p>24 A. (Shaking head.)</p>
<p style="text-align: right;">328</p> <p>1 MR. LYONS: Fine.</p> <p>2 (Lunch recess taken.)</p> <p>3 (Exhibit 22, Handwritten document,</p> <p>4 marked for identification.)</p> <p>5 (Exhibit 23, Budgets, marked for</p> <p>6 identification.)</p> <p>7 (Exhibit 24, Meadowbrook Animal</p> <p>8 Sanctuary and Haven, site visit report, marked for</p> <p>9 identification.)</p> <p>10 (Exhibit 25, memo, marked for</p> <p>11 identification.)</p> <p>12 (Exhibit 26, Brochure, marked for</p> <p>13 identification.)</p> <p>14 (Exhibit 27, Board meeting minutes,</p> <p>15 marked for identification.)</p> <p>16 Q. Dr. Lyons, to save time, I've had a few</p> <p>17 exhibits marked during the lunch break. This is</p> <p>18 Exhibit 22. I just want to ask you to identify</p> <p>19 this. Are these the notes of your conversation in</p> <p>20 1999 with Dr. Park?</p> <p>21 A. They would be notes certainly related to a</p> <p>22 conversation that I had with Dr. Park.</p> <p>23 Q. Do you have any memory as to when you took</p> <p>24 these notes?</p>	<p style="text-align: right;">330</p> <p>1 Q. Let me show you what's been marked as</p> <p>2 Exhibit 23. I want to do my best to help you catch</p> <p>3 your train, so I'm going to move through some</p> <p>4 documents quickly. But if I'm moving too fast, just</p> <p>5 tell me.</p> <p>6 This was produced to us, I'll tell you,</p> <p>7 in this order. This purports to be a collection of</p> <p>8 budgets.</p> <p>9 A. Oh.</p> <p>10 Q. I just want to confirm that these are what</p> <p>11 they appear to be. Are these the budgets for</p> <p>12 Homecoming Farm from 1995 through 2011?</p> <p>13 A. Yes.</p> <p>14 Q. Are they the only budgets you have for</p> <p>15 Homecoming Farm over this period?</p> <p>16 In other words -- let me ask you a</p> <p>17 better question -- are there any more detailed</p> <p>18 budgets, for instance, in an Excel spreadsheet --</p> <p>19 that exist?</p> <p>20 A. No.</p> <p>21 Q. These are budgets that you composed?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know when you composed them?</p> <p>24 A. To the best of my recollection, they would</p>

<p style="text-align: right;">331</p> <p>1 have been composed year to year as we prepared our</p> <p>2 990's.</p> <p>3 Q. If you turn to Page 4627, or Bates Stamp</p> <p>4 4627. My understanding is that on these budgets,</p> <p>5 these all more or less have the same format; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. And the top, as I understand it, are your</p> <p>9 expenditures?</p> <p>10 A. Yes.</p> <p>11 Q. And the bottom part is the incoming money;</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. And it lists the different sources of money</p> <p>15 that came in; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And so, for instance, The Baker Trust, do</p> <p>18 you see that entry?</p> <p>19 A. Yes.</p> <p>20 Q. That indicates that during the year 2001</p> <p>21 you received \$2,000 from The Baker Trust; is that</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And in this particular case, that seems to</p>	<p style="text-align: right;">333</p> <p>1 educational booklets for ACVSMR. So in trying to</p> <p>2 answer you as accurately as I can, that I would have</p> <p>3 put down as a general operating expense just in</p> <p>4 general.</p> <p>5 Q. And looking back now at this year, 2011,</p> <p>6 are you able to separate which parts of that general</p> <p>7 operating expense line went to sending educational</p> <p>8 materials -- for instance, postage for educational</p> <p>9 materials -- and which went to things that</p> <p>10 Homecoming Farm did that didn't pertain to ACVSMR,</p> <p>11 such as raising money for disaster relief? Do you</p> <p>12 have a breakdown?</p> <p>13 A. No, I'm not able to do that.</p> <p>14 Q. Okay, thank you. Several of these pages, I</p> <p>15 think all of them, have a line for general public</p> <p>16 donations. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. What are those?</p> <p>19 A. General public donations that are less than</p> <p>20 whatever the IRS regulations are in a given year for</p> <p>21 donations to be under the wire, so to speak, for not</p> <p>22 needing an individual to be acknowledged for tax</p> <p>23 purposes.</p> <p>24 Q. Who are the individuals that provided these</p>
<p style="text-align: right;">332</p> <p>1 have been earmarked for a particular item.</p> <p>2 A. Yes.</p> <p>3 Q. And some of these items are earmarked</p> <p>4 specifically for ACVSMR.</p> <p>5 A. Yes.</p> <p>6 Q. And some of the items are earmarked, when</p> <p>7 it says "general operating," is that general</p> <p>8 operating expenses of Homecoming Farm?</p> <p>9 A. Yes. But I want to say again that, since</p> <p>10 ACVSMR was a project of Homecoming Farm, that the</p> <p>11 general operating expenses of Homecoming Farm would</p> <p>12 include the general operating expenses of ACVSMR.</p> <p>13 Q. Do you have a breakdown of the expenses,</p> <p>14 general operating expenses of ACVSMR versus other</p> <p>15 Homecoming Farm projects?</p> <p>16 A. No, the general operating expenses for the</p> <p>17 corporation, for Homecoming Farm, would be general</p> <p>18 operating expenses also for the ACVSMR project.</p> <p>19 Let me try to make it clear this way:</p> <p>20 It's not as if there's an expenditure that's</p> <p>21 considered general operating. Let's say it's</p> <p>22 mailing, it's buying postage. That's a general</p> <p>23 operating expense, and there are times when that</p> <p>24 postage would be used to mail brochures or the</p>	<p style="text-align: right;">334</p> <p>1 donations, generally?</p> <p>2 A. We receive checks or donations through</p> <p>3 PayPal just because someone has found our programs.</p> <p>4 So they're truly just members of the general public.</p> <p>5 Q. Do you have a breakdown of how much comes</p> <p>6 in through PayPal versus how much comes in through,</p> <p>7 say, checks in the mail?</p> <p>8 A. No, I don't.</p> <p>9 Q. Do you have a general sense of where the</p> <p>10 majority of these donations are coming, through what</p> <p>11 avenue?</p> <p>12 A. Some could be checks in the mail. Very</p> <p>13 little comes through PayPal. Checks in the mail --</p> <p>14 or let's say we do a lecture. Many times people</p> <p>15 will leave cash donations, will write a check for an</p> <p>16 amount that's under, as I say, whatever the amount</p> <p>17 that year that the IRS requires an individual to be</p> <p>18 acknowledged. So there are many, many different</p> <p>19 ways for general public donations to be received.</p> <p>20 Q. And do you also get donations from</p> <p>21 individuals when you go and give a seminar, somebody</p> <p>22 might hand you a check? Does that happen?</p> <p>23 A. A seminar?</p> <p>24 Q. Well, you mentioned clinical seminars.</p>

<p style="text-align: right;">335</p> <p>1 Correct?</p> <p>2 A. Yes.</p> <p>3 Q. Does that commonly happen at clinical</p> <p>4 seminars, that someone hands you a check?</p> <p>5 A. No.</p> <p>6 Q. Does it commonly happen at lectures, that</p> <p>7 someone sends you a check?</p> <p>8 A. Certainly more often at a lecture, or what</p> <p>9 they will do is, they will follow up and send a</p> <p>10 check based on their support following a lecture.</p> <p>11 Q. Let me show you another document, Exhibit</p> <p>12 24. And I have to apologize if I appear to be</p> <p>13 looking down at the next document while you're</p> <p>14 answering questions. I'm going to try to make some</p> <p>15 headway fast now, so we can end in time for everyone</p> <p>16 to catch their trains. This document's been marked</p> <p>17 Exhibit 24. And I'll represent to you that this was</p> <p>18 a document you produced in this case. Do you</p> <p>19 recognize this document?</p> <p>20 A. Yes.</p> <p>21 Q. What is the connection between -- well, let</p> <p>22 me ask you this: What is a site visit?</p> <p>23 A. A site visit is something that I do</p> <p>24 sometimes on behalf of other foundations, but also</p>	<p style="text-align: right;">337</p> <p>1 on behalf of Homecoming Farm, and where the ACVSMR</p> <p>2 project would come in is that, as I believe I</p> <p>3 explained a little bit yesterday, one of the ways</p> <p>4 that we have found is very helpful to teaching</p> <p>5 students the clinical methods is to have the</p> <p>6 students get practical experiences at equine rescue</p> <p>7 facilities or shelters.</p> <p>8 So when I do site visits for -- whether</p> <p>9 it's -- in this case it says site visit report for</p> <p>10 the Ahimsa Foundation. Now, the Ahimsa Foundation</p> <p>11 foundation -- and I hope this is not confidential</p> <p>12 information; I'm sure it's not going to be broadcast</p> <p>13 widely -- they give animal welfare grants. And so</p> <p>14 this suggests to me that they had either in the past</p> <p>15 received funding from the Ahimsa Foundation or where</p> <p>16 the Ahimsa Foundation was in consideration of a</p> <p>17 proposal from them.</p> <p>18 So I have combined my project's need to</p> <p>19 identify responsible equine shelters so that they</p> <p>20 may partner with her programs. So in that sense</p> <p>21 it's difficult to give you a yes or no, because when</p> <p>22 I do a site visit, if I end up feeling very good</p> <p>23 about the organization and if the shelter personnel</p> <p>24 would like to explore receiving some of our</p>
<p style="text-align: right;">336</p> <p>1 in connection with Homecoming Farm and our ACVSMR</p> <p>2 project. These are site visits and reviews, if you</p> <p>3 will, that I do for -- at equine rescue</p> <p>4 organizations.</p> <p>5 Q. And is the Meadowbrook Animal Sanctuary and</p> <p>6 Haven one of these associations?</p> <p>7 A. Yes.</p> <p>8 Q. From the name, that's kind of a stupid</p> <p>9 question, but....</p> <p>10 And is this particular site visit</p> <p>11 related to ACVSMR?</p> <p>12 A. I need to read this.</p> <p>13 Q. If it makes it easier, I'll represent to</p> <p>14 you that I couldn't find the use of that term in</p> <p>15 this document. And my question is really: Is that</p> <p>16 an indication that it is not connected to ACVSMR but</p> <p>17 is a program of Homecoming Farm that is separate?</p> <p>18 A. No.</p> <p>19 Q. So this could be connected to ACVSMR?</p> <p>20 A. Yes.</p> <p>21 Q. Do you do site visits that are not</p> <p>22 connected to ACVSMR? And when I say "connected," I</p> <p>23 mean are not under part of the project of ACVSMR.</p> <p>24 A. Well, when I do a site visit, I'm doing it</p>	<p style="text-align: right;">338</p> <p>1 students, both to help their horses recover -- then</p> <p>2 that's something we explore.</p> <p>3 So it's a two-birds/one-stone endeavor.</p> <p>4 Q. Let me show you a document I had marked</p> <p>5 during lunch as Exhibit 25. And I'll represent to</p> <p>6 you this is another document produced in your</p> <p>7 production of documents. Do you recognize this</p> <p>8 document?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Who is Larry Ashton?</p> <p>11 A. Larry is a farrier who had taken part in an</p> <p>12 educational program.</p> <p>13 Q. As far as you know, is this date on this</p> <p>14 letter accurate, 1996? Is that when you received</p> <p>15 this letter?</p> <p>16 A. I don't -- it's the date on the letter.</p> <p>17 Q. Now, he's asking in the letter to purchase</p> <p>18 an ACVSMR book from you.</p> <p>19 A. Yes.</p> <p>20 Q. What book would that have been?</p> <p>21 A. That would have been one of our -- I</p> <p>22 believe I produced them in the documents. Whether</p> <p>23 it was a podiatry book. Now, since he said the</p> <p>24 ACVSMR book, he wasn't more clear, and I can't</p>

<p style="text-align: right;">339</p> <p>1 recall whether in the 1996 we had more than just the 2 farrier book or podiatry book or photographic 3 recordkeeping book. 4 Q. I'm going to show you another document 5 that's been labeled 26, Exhibit 26. I'm going to 6 ask you if you recognize this document. 7 A. Yes. 8 Q. How do you recognize it? 9 A. It was produced in your documents to me. 10 Q. When was the first time you saw this 11 document? 12 A. To the best of my recollection, I believe 13 this is the document that Ellen Asack showed to me 14 that she had created for Homecoming Farm. 15 Q. And when did she show this document to you? 16 A. I think -- I don't recall. 17 Q. At some point did you give a seminar or 18 lecture at Cape Cod in which Ellen Asack was 19 involved? 20 A. Yes. 21 Q. And was it prior to that seminar or 22 lecture? 23 A. Yes. 24 Q. Why was she creating a brochure for</p>	<p style="text-align: right;">341</p> <p>1 part of Homecoming Farm. 2 Q. And when did she present this to you? I'm 3 sorry, in what circumstances do you remember her 4 presenting this to you? 5 A. She showed it to me along with, I think it 6 was, a poster, and said that since Homecoming Farm 7 did not have brochures and things, that she had 8 taken care of this in order to distribute this 9 material. 10 Q. And did she distribute it; do you know? 11 A. I believe she did. But I responded rather 12 strongly to what she had reported she had done. So 13 I really never found out the extent of what she had 14 done to distribute this material. 15 Q. Now, the lecture in Cape Cod, that was in 16 2004; correct? 17 A. Yes. 18 Q. When did you first meet Ms. Asack? 19 A. I don't recall. 20 Q. Was it close to that event? Was it years 21 before, months before? 22 A. It would have been within a year, I 23 believe. 24 Q. Let me put that aside. Just to be clear,</p>
<p style="text-align: right;">340</p> <p>1 Homecoming Farm -- or purportedly for Homecoming 2 Farm? 3 A. Yes. Ellen Asack is, as I mentioned a 4 little bit yesterday, she's the owner of two 5 chronically abused, neglected ponies, and sought my 6 help through Homecoming Farm to provide 7 rehabilitation services for them. I provided free 8 assistance to her ponies. The ponies recovered very 9 well. And Ellen Asack toward -- in the course of 10 helping her, it became very clear that she was just 11 mentally disturbed. 12 Q. I'm sorry, I'm going to move to strike and 13 just ask the question again. Do you know why she 14 produced this brochure? I'm not sure -- I 15 understand the history. Is that the question you 16 were answering? 17 A. Yes. 18 MR. LYONS: It's responsive to the 19 question. 20 Q. Let me withdraw the motion to strike. I 21 just didn't understand it. I just wanted to make 22 sure you understood the question. 23 A. Yes. So she was trying to both ingratiate 24 herself with me, and she wanted to make herself a</p>	<p style="text-align: right;">342</p> <p>1 you didn't endorse this document? 2 A. No, I did not. 3 Q. Did you instruct her not to send it to 4 anyone? 5 A. Oh, yes -- after the fact. 6 Q. After she had created it. 7 A. Yes. 8 Q. Do you know if it was distributed at the 9 lecture? 10 A. I don't believe it was. But I don't -- I 11 don't know, because by the time I arrived at the 12 lecture, the people were already in the room. 13 Q. Let me -- and I'm sorry, I didn't know if 14 you understood the question. I wasn't trying to 15 prevent you from answering. This document's been 16 marked Exhibit 27. And I'll represent to you that 17 this is another -- like the copyright document I 18 showed you before, the cover page I think was 19 something prepared by your attorney to denote the 20 category of documents that you were producing. Now, 21 are these the minutes of board meetings of the 22 Homecoming Farm? 23 A. These would be notes. There would not have 24 been a board meeting in Dubai. Dr. al Redha is a</p>

<p style="text-align: right;">343</p> <p>1 physician and client, so it would have come under --</p> <p>2 well, it says board meeting minutes on the title</p> <p>3 page. But these would be notes from, in this case,</p> <p>4 an advisory board member.</p> <p>5 Q. I see. So Mr. Hussein al Redha -- is it</p> <p>6 Dr. Hussein al Redha -- he was an advisory board</p> <p>7 member?</p> <p>8 A. Yes.</p> <p>9 Q. How long was he an advisory board member</p> <p>10 for?</p> <p>11 A. I continue to, you know, seek input from</p> <p>12 Dr. al Redha.</p> <p>13 Q. If you turn to Page 3896, which is the one</p> <p>14 with the -- I was going to say the one with the nice</p> <p>15 little horse in the corner of the page, but they all</p> <p>16 have that -- marked 52197: Is this meeting minutes?</p> <p>17 A. Because the -- there is not a list of board</p> <p>18 members here, I can't definitively answer whether</p> <p>19 it's an administrative board meeting minutes or</p> <p>20 whether this would have been related to the advisory</p> <p>21 board.</p> <p>22 Q. The first word in this document, BAH -- do</p> <p>23 you see that?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">345</p> <p>1 meetings of the board of directors of Homecoming</p> <p>2 Farm. I'm talking about the corporate board. We</p> <p>3 already established earlier that the advisory board</p> <p>4 doesn't meet as a group.</p> <p>5 A. That's right.</p> <p>6 Q. But I'm asking about the corporate board.</p> <p>7 Are there any besides these that have not been</p> <p>8 produced?</p> <p>9 A. Not that -- no, I believe that these are</p> <p>10 all the --</p> <p>11 Q. These are all the minutes?</p> <p>12 A. Yes.</p> <p>13 Q. Are there meetings of the corporate board</p> <p>14 for which there are not minutes? In other words,</p> <p>15 were there meetings for which there are not minutes?</p> <p>16 A. There are meetings -- there are meetings</p> <p>17 for which there are no longer minutes available.</p> <p>18 Q. Did your corporate board meet between 2002</p> <p>19 and 2006?</p> <p>20 A. Yes, it did.</p> <p>21 Q. Do you have any minutes or any meetings</p> <p>22 during that time?</p> <p>23 A. What were your dates?</p> <p>24 Q. 2002 -- between 2002 and 2006. So let's</p>
<p style="text-align: right;">344</p> <p>1 Q. Do you know what that stands for?</p> <p>2 A. It's someone's initials, and I'm trying to</p> <p>3 think of who.</p> <p>4 Q. So this may reflect a conversation with one</p> <p>5 person?</p> <p>6 A. Yes. Well, no, that line might.</p> <p>7 Q. If you turn to Page 3899: Are these the</p> <p>8 minutes of the 2000 annual meeting of the Homecoming</p> <p>9 Farm corporate board?</p> <p>10 A. I'm sorry, what page again, please?</p> <p>11 Q. 3899.</p> <p>12 A. Yes.</p> <p>13 Q. And do you know from this who attended that</p> <p>14 meeting?</p> <p>15 A. I don't.</p> <p>16 Q. It looks like someone named Mary was there.</p> <p>17 Would you agree with me on that?</p> <p>18 A. No. It says "Mary to call references."</p> <p>19 Q. So that doesn't necessarily mean she would</p> <p>20 have been there.</p> <p>21 A. That's right.</p> <p>22 Q. I'm going to ask you just to flip through</p> <p>23 this and let me know if, other than these minutes,</p> <p>24 you have in your possession any other minutes of</p>	<p style="text-align: right;">346</p> <p>1 say, for instance, '03, '04, '05?</p> <p>2 A. No, I don't.</p> <p>3 Q. Now, yesterday Mr. Dickison asked you about</p> <p>4 an incident or you told Mr. Dickison about an</p> <p>5 incident with Jess Jackson. Do you remember that?</p> <p>6 Is it a Mr. Jackson?</p> <p>7 A. Yes.</p> <p>8 Q. And he's passed away; correct?</p> <p>9 A. Yes.</p> <p>10 Q. And when was that, approximately, that he</p> <p>11 passed away?</p> <p>12 A. Last year.</p> <p>13 Q. And you understood that Jess Jackson was</p> <p>14 going to stop giving you business based on the</p> <p>15 actions of the AVMA. Was that your testimony? And</p> <p>16 again, this is another instance of my imperfect</p> <p>17 memory.</p> <p>18 A. Well, I was being asked the question by the</p> <p>19 AVMA.</p> <p>20 MR. KLUFT: Right.</p> <p>21 A. So my answer was responsive to the AVMA.</p> <p>22 Q. I'm not trying to exclude my client. I'm</p> <p>23 just asking -- I understand that you've already</p> <p>24 testified that all the harm created by the AVMA is</p>

<p style="text-align: right;">347</p> <p>1 the same as the harm you're alleging created by my                  2 client. I'm just asking, is that what essentially                  3 you testified to that Mr. Jackson said he had heard                  4 about something with regard to the AVMA and that was                  5 going to cause him to stop giving you business?                  6 A. No.                  7 Q. What did he say to you precisely?                  8 A. I don't recall what he said to me                  9 precisely.                  10 Q. And when was the last time he did hire you?                  11 A. At that race.                  12 Q. And then he passed away shortly thereafter?                  13 A. No. Two and a half years later. I think;                  14 I don't remember the date of his death.                  15 Q. And in the intervening two and a half                  16 years, do you have knowledge that he hired someone                  17 else to do the job that you were doing? Sitting                  18 here today, do you know whether or not he hired                  19 someone else to do the job that you were doing?                  20 A. Other veterinarians would have done the job                  21 that I did to the degree that they were capable of                  22 doing it.                  23 Q. Do you know for a fact that he actually                  24 hired other people to do that job whether or not</p>	<p style="text-align: right;">349</p> <p>1 qualifications. Is that my --                  2 A. Yes.                  3 Q. I'm guessing, based on your testimony                  4 today, that person was Jane Hutton; is that correct?                  5 A. Yes.                  6 Q. And she had said that other -- that                  7 horsemen had been talking about this issue? Is that                  8 what you testified to?                  9 A. I don't recall what I testified to. That                  10 she had been told that the reason that I was removed                  11 from the organizing committee was that I am not                  12 really a doctor.                  13 Q. Those were Jane Hutton's words?                  14 A. Well, that's my recollection of what she                  15 communicated.                  16 Q. That's all I'm asking. Did she give you a                  17 name of who told her that?                  18 A. She did not.                  19 Q. And you connected yet Dr. Clayton with that                  20 statement.                  21 A. Yes.                  22 Q. How is it that you connect Dr. Clayton with                  23 that statement?                  24 A. Because another physiotherapist was there</p>
<p style="text-align: right;">348</p> <p>1 they were capable of it?                  2 A. Well, I think my difficulty in answering is                  3 that when you say "hired," veterinarians work for                  4 many clients, and the horses travel extensively. So                  5 Mr. Jackson and his trainers would have many                  6 veterinarians working with them. So to say                  7 specifically hire someone else -- all I know is that                  8 I did no more work for him after that incident.                  9 Q. Did he have employees?                  10 A. I can't testify about Mr. Jackson's --                  11 Q. What I'm asking is, did anybody else that                  12 worked with Mr. Jackson or to Mr. Jackson also talk                  13 to you about this issue? Or it was just based on                  14 your conversation with him?                  15 A. I believe it was just based on....                  16 Q. And you also mentioned an incident in Hong                  17 Kong at the, quote, "Beijing Olympics." Is that                  18 correct?                  19 A. That's correct.                  20 Q. I was a little confused, I had to ask                  21 somebody yesterday was there a Hong Kong Olympics,                  22 and Mr. Segal said the horses were there. You had                  23 mentioned that a physiotherapist had said that                  24 somebody had said something about your</p>	<p style="text-align: right;">350</p> <p>1 who is employed by Dr. Clayton's lab.                  2 Q. And what did that physiotherapist, if                  3 anything, say to you about this issue?                  4 A. She has said nothing to me. But I believe                  5 that she is the one that spoke to Jane Hutton.                  6 Q. Did Jane Hutton tell you that?                  7 A. I don't recall. That's why I don't want to                  8 be clear -- I don't want to make a definitive                  9 statement. She may have, or it may have been                  10 implied because she had seen Narelle and had spent                  11 time with her.                  12 Q. That's her name, Narelle?                  13 A. Yes.                  14 Q. What's her last name?                  15 A. Stubbs.                  16 Q. You were the one that recommended Dr.                  17 Clayton to be on the organizing committee; isn't                  18 that correct?                  19 A. I invited her to join my organizing                  20 committee.                  21 Q. And some of the organizing committee                  22 members were invited by Dr. Gillette as well; isn't                  23 that correct?                  24 A. With agreement from me, yes. We discussed</p>

<p style="text-align: right;">351</p> <p>1 who else might be invited.</p> <p>2 Q. And then to cut to the chase, you invited</p> <p>3 the horse people and he invited the dog people? Is</p> <p>4 that generally --</p> <p>5 A. Pretty much.</p> <p>6 Q. And Dr. Clayton's a horse person; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And why did you select her?</p> <p>9 A. Dr. Clayton has a lab at Michigan</p> <p>10 Veterinary School that conducts research in sports</p> <p>11 medicine in horses. I know that she has an interest</p> <p>12 in the horse sports, and she has an academic</p> <p>13 appointment, which I had been told the AVMA prefer</p> <p>14 that I have academics on my committee.</p> <p>15 MR. KLUFT: Let me mark another</p> <p>16 document, as Exhibit 28.</p> <p>17 (Exhibit 28, Homecoming Farm website,</p> <p>18 marked for identification.)</p> <p>19 Q. I'll tell you in advance I'm not going to</p> <p>20 ask you questions about the substance of this</p> <p>21 document. This is a document that was produced in</p> <p>22 this litigation with the cover page "Homecoming Farm</p> <p>23 Inc. Website." I just want you to authenticate that</p> <p>24 this was the website as of December 11th, 2012.</p>	<p style="text-align: right;">353</p> <p>1 Q. All versions of the website that are in</p> <p>2 your possession have been produced; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Did you have prior versions of the website,</p> <p>5 prior to December 11th, 2012?</p> <p>6 A. Yes.</p> <p>7 Q. And those have been produced?</p> <p>8 A. Yes. I believe they've been produced</p> <p>9 through the U.S. PTO. I would need to see -- I</p> <p>10 would need to see my documents to know where they</p> <p>11 are.</p> <p>12 Q. And were those the versions that existed</p> <p>13 more or less at the time you were asked to produce</p> <p>14 documents at the PTO hearing? In other words, the</p> <p>15 PTO hearing was, I think, 2010-2011. Are these the</p> <p>16 websites as of that date's range, or are they</p> <p>17 earlier versions?</p> <p>18 A. I don't recall. I'd have to see the</p> <p>19 documents.</p> <p>20 Q. Let me show you another document, and we'll</p> <p>21 mark this Exhibit 29.</p> <p>22 (Exhibit 29, "Homecoming Farm, Inc.,"</p> <p>23 marked for identification.)</p> <p>24 Q. Do you recognize this document?</p>
<p style="text-align: right;">352</p> <p>1 A. Yes.</p> <p>2 Q. And how long had this version of the</p> <p>3 website been up? In other words, when was the last</p> <p>4 time you made a change to this website prior to</p> <p>5 December 11, 2012?</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you have a ballpark figure of when you</p> <p>8 last went into your template and made any changes to</p> <p>9 your website?</p> <p>10 A. I don't.</p> <p>11 Q. Do you keep statistics on how many visitors</p> <p>12 come to your website?</p> <p>13 A. I don't.</p> <p>14 Q. Do you have access to those statistics, to</p> <p>15 your knowledge?</p> <p>16 A. To my knowledge, no.</p> <p>17 Q. When did this website first go up?</p> <p>18 A. I don't recall.</p> <p>19 Q. How about the ACVSMR.com website? When was</p> <p>20 the first time that went up?</p> <p>21 A. I don't recall.</p> <p>22 Q. When was the last time you made a change to</p> <p>23 it?</p> <p>24 A. I don't recall.</p>	<p style="text-align: right;">354</p> <p>1 A. Yes.</p> <p>2 Q. Was this ever the website for</p> <p>3 HomecomingFarm.com?</p> <p>4 A. I would need to know the origin of it. I</p> <p>5 don't know if this is what I produced.</p> <p>6 Q. Has anyone else besides you ever created a</p> <p>7 Web page for Homecoming Farm that is on the site</p> <p>8 HomecomingFarm.com, that you know of?</p> <p>9 A. On my behalf or --</p> <p>10 Q. I'm asking, based on your knowledge, has</p> <p>11 anyone else ever created a website that resided at</p> <p>12 HomecomingFarm.com, aside from you?</p> <p>13 A. I can't recall.</p> <p>14 Q. Did you ever give anyone permission or</p> <p>15 access to the password they would need to create a</p> <p>16 website for you?</p> <p>17 A. Yes.</p> <p>18 Q. Who?</p> <p>19 A. A number of people, because the website I</p> <p>20 believe was up before I had a computer.</p> <p>21 Q. And as of 2004 -- the date on this is June</p> <p>22 29th, 2004 -- who had access to the Web --</p> <p>23 I'm sorry, it was a bad question on the</p> <p>24 record. As of 6/29/2004, who had access to make</p>

<p style="text-align: right;">355</p> <p>1 changes to your Web page?</p> <p>2 A. Anyone who had helped to post it for me.</p> <p>3 Q. And who would those people be?</p> <p>4 A. I don't recall.</p> <p>5 Q. So your testimony is, you don't know,</p> <p>6 sitting here today, whether or not this was ever the</p> <p>7 Web page of HomecomingFarm.com.</p> <p>8 A. That's correct.</p> <p>9 Q. We'll put that aside. I'm going to mark</p> <p>10 another document.</p> <p>11 (Exhibit 30, Web photos, marked for</p> <p>12 identification.)</p> <p>13 Q. Let me ask a different way.</p> <p>14 MR. LYONS: It appears to be incomplete,</p> <p>15 because at least at the top of the document it says</p> <p>16 5 of 9, and it also says 1 of 1.</p> <p>17 MR. KLUFT: You're talking about the --</p> <p>18 Q. Let me ask you this. Let me see if I can</p> <p>19 get at it a different way.</p> <p>20 You've seen this picture on the website</p> <p>21 before; correct?</p> <p>22 A. Yes.</p> <p>23 Q. It's the same picture in the brochure we</p> <p>24 looked at earlier that Ms. Asack had created.</p>	<p style="text-align: right;">357</p> <p>1 background. Is it your understanding that this is</p> <p>2 the website or part of the website she created?</p> <p>3 A. It may be, but I never saw the website that</p> <p>4 she created.</p> <p>5 Q. The Homecoming Farm 2@ATTBI.com: Was that</p> <p>6 ever your email address?</p> <p>7 A. It was one of them, yes. It was the</p> <p>8 nonprofit's, actually.</p> <p>9 Q. You can put that document aside. Let me</p> <p>10 mark another document.</p> <p>11 (Exhibit 31, "Equine Musculoskeletal and</p> <p>12 Neuromuscular Reference Guide," marked for</p> <p>13 identification.)</p> <p>14 Q. Have you had a chance to just flip through</p> <p>15 that? I'm not going to ask you substantive</p> <p>16 questions about the contents. But what I would like</p> <p>17 to ask you: Is this an educational book from ACVSMR</p> <p>18 or an education material from ACVSMR?</p> <p>19 A. Yes.</p> <p>20 Q. And the contents, other than the cover</p> <p>21 page, who is the author of those contents?</p> <p>22 A. I believe that's Dr. Goody, is the anatomy</p> <p>23 portion. And in the second portion, where there's a</p> <p>24 listing, that was -- we were given that by, I</p>
<p style="text-align: right;">356</p> <p>1 A. Yes.</p> <p>2 Q. Are you aware of her creating a website for</p> <p>3 you as well?</p> <p>4 A. She told me that she did, yes.</p> <p>5 Q. She told you that she did. Was the</p> <p>6 address, as far as you know, home.comcast.net (sic)?</p> <p>7 A. I do not know.</p> <p>8 Q. Did she have your approval to create this</p> <p>9 website?</p> <p>10 A. No.</p> <p>11 Q. Where did she get this picture of you? Do</p> <p>12 you know?</p> <p>13 A. She told me that she took things off the</p> <p>14 Internet.</p> <p>15 Q. You at the time that this was created</p> <p>16 didn't have your own website up yet; isn't that</p> <p>17 correct?</p> <p>18 A. I believe I did.</p> <p>19 Q. You believe you did.</p> <p>20 A. Yes.</p> <p>21 Q. I understand that this is a barely legible</p> <p>22 document, so just tell me if you can't answer this.</p> <p>23 But is it your understanding that -- and I'll</p> <p>24 represent to you that the original of this is green</p>	<p style="text-align: right;">358</p> <p>1 believe, ACPAT.</p> <p>2 Q. And Homecoming Farm has permission to use</p> <p>3 all these materials?</p> <p>4 A. Yes.</p> <p>5 Q. Now, in 1999 -- we already talked about the</p> <p>6 Oregon conference; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And we talked about how you met Dr.</p> <p>9 Gillette there.</p> <p>10 A. Yes.</p> <p>11 Q. And you had expressed that at some point it</p> <p>12 might have been -- so tell me if this is wrong --</p> <p>13 you conditioned his participation in the ACVSMR on</p> <p>14 his following certain, I think you called them</p> <p>15 conditions. Can you list for me what those</p> <p>16 conditions were?</p> <p>17 A. Well, I'm not sure what my specific</p> <p>18 testimony was and what words I used. I'm not sure I</p> <p>19 used the word "conditions."</p> <p>20 Q. Let me just ask you the question: When you</p> <p>21 were at the Oregon conference, did you put any</p> <p>22 conditions on his participation in the ACVSMR?</p> <p>23 A. When I introduced myself to Dr. Gillette at</p> <p>24 the Oregon conference, I described my work,</p>

<p style="text-align: right;">359</p> <p>1 Homecoming Farm, ACVSMR, and asked if he might be  2 interested in considering joining my organizing  3 committee to help with the canine aspects.  4 I then, when he said yes -- and it was a  5 much longer conversation, which I explained a little  6 bit more about yesterday. But then I sent materials  7 to him, and I explained to him that I'd like him to  8 review the materials before deciding whether he  9 would like to join my committee, because the  10 committee's work would follow the guidelines or plan  11 or the description that I had made in my plan for  12 essentially developing a training curriculum for  13 veterinarians to be educated in a specialty.  14 So at the Oregon meeting, I would say at  15 that snapshot in time, the condition is that he  16 review the materials and then let me know whether or  17 not he would be comfortable joining the committee  18 with the understanding that that would be the plan,  19 as I had described it -- the compilation of plans,  20 materials, training methods, the structure, you  21 know, so that he understood that that was what I was  22 going forward with.  23 Q. My understanding of your testimony  24 yesterday was that at some point you made it clear</p>	<p style="text-align: right;">361</p> <p>1 be happy with the materials, because if he wasn't,  2 then, you know, we clearly weren't of the same mind  3 about going forward.  4 Q. And was it also a condition that the name  5 ACVSMR was set in stone? In other words, was that a  6 negotiable item as far as you were concerned, at the  7 time?  8 A. For my specialty, that would be the name,  9 yes.  10 Q. And if Dr. Gillette had said, well, "I love  11 the Equine Excellence Initiative and I love your  12 work and I want to do exactly what you want but I  13 want to call it something else," would you have  14 permitted that?  15 A. Well, it wouldn't be a matter of  16 permitting, because I would have to be on the  17 committee. So I can't abstractly imagine, if that  18 had come up, would I have been happy to have his  19 participation if he set as his condition that the  20 name change -- I can't answer that abstractly.  21 Q. Was there ever a time at any stage when the  22 organizing committee, when you were on the  23 organizing committee, that they discussed the name?  24 A. Just that it would be -- yes.</p>
<p style="text-align: right;">360</p> <p>1 that if he didn't want to follow the basic structure  2 and substance that you had laid out in the Equine  3 Excellence Initiative, that he could, you know, go  4 do his own thing. Am I wrong?  5 A. It wasn't just the Equine Excellence  6 Initiative. There were other materials that I sent  7 to him.  8 Q. And other than the fact that there were  9 other materials, did I accurately state what you  10 communicated to Dr. Gillette?  11 A. I'd need you to....  12 Q. In other words, that you were insistent  13 that the substance of your papers be the basis for  14 the new group or the new project and, if he wasn't  15 okay with that, then he was not -- he could go do  16 his own thing, but he was not going to be part of  17 your project. Is that correct?  18 A. Well, I want to be clear that the project  19 or the committee would not be independent. So just  20 the way you phrased it suggests that the committee  21 had this independent -- and was going to use my  22 materials. But it was me forming a committee. So  23 as long as he wanted to be a part of my committee,  24 then yes, the arrangement needed to be that he -- he</p>	<p style="text-align: right;">362</p> <p>1 Q. And when was that?  2 A. Well, it was when I discussed it with Dr.  3 Gillette, because I presented this as the ACVSMR  4 project of Homecoming Farm, and then that was what  5 we would go forward with.  6 Q. And so there was never any discussion about  7 whether it should be called something else?  8 A. When we went to Michigan, there was just a  9 discussion that would be the name, but not that it  10 might be something else.  11 Q. And at Michigan, are you referring to the  12 meeting between you and Dr. Gillette and Dr.  13 Clayton?  14 A. Yes.  15 Q. I want to show you another document that  16 needs to be marked.  17 (Exhibit 32, letter, marked for  18 identification.)  19 Q. I'm not going to ask you about the  20 substance of this document, by the way. I'm just  21 going to ask you whether it's the letter that you  22 sent.  23 A. I have to read it to know.  24 MR. KLUFT: Off the record.</p>

<p style="text-align: right;">363</p> <p>1 (Discussion off the record.) 2 Q. Is this a letter you sent to Dr. Gillette 3 after the Oregon conference? 4 A. Yes, I believe. 5 Q. And is this the letter by which you 6 provided him the Equine Excellence Initiative and 7 other documents? 8 A. Yes. 9 Q. Are there any documents you provided him 10 enclosed with this, in your memory, that aren't 11 actually mentioned in the text of the letter? And 12 I'll represent to you that I see two documents 13 mentioned in the text: the Equine Excellence 14 Initiative and a curriculum. 15 A. I don't recall what I put in the package, 16 but it was my -- I probably included a few other 17 things. 18 Q. But you don't -- do you remember, sitting 19 here today, what they were? 20 A. I believe one of them was the -- there's a 21 copyrighted document called something like General 22 Objectives of Homecoming Farm. 23 Q. And we looked at that today. I think we 24 specifically referenced that was part of the</p>	<p style="text-align: right;">365</p> <p>1 places. 2 Q. And in Los Angeles? 3 A. That would be, I believe it was L.A. 4 County. 5 Q. Is that Hospital? The name of a hospital? 6 A. Hospital. Yes. 7 Q. Any other hospitals in Los Angeles? 8 A. There was one in Irvine, and I don't recall 9 what the affiliation was. 10 Q. Who was your -- did you have an adviser or 11 a supervisor or supervisors for this fellowship? 12 A. It was Dr. Edwin Guise. 13 Q. And where is he today? 14 A. I mentioned this yesterday. He died. 15 Q. And what institution was he connected with 16 at the time that he served as your adviser? 17 A. He was in private practice, so I don't know 18 that he had an institution -- if you mean an 19 academic institution -- 20 Q. Correct, that's what I mean. 21 A. -- that he was affiliated with. 22 Q. He was not affiliated with -- 23 A. I don't know. 24 Q. Were there any supervisors or advisers that</p>
<p style="text-align: right;">364</p> <p>1 educational -- 2 A. Yes. 3 Q. -- documents? Okay. And in the third 4 paragraph here you refer to your own postdoctoral 5 training. 6 A. Yes. 7 Q. What were you referring to there? 8 A. That was a fellowship that I did in 9 physical medicine and rehabilitation. 10 Q. And was this the fellowship you mentioned 11 yesterday to Mr. Dickson that was partially in 12 Boston and partially in Los Angeles? 13 A. Yes. 14 Q. And what institutions were connected with 15 that fellowship in Boston and Los Angeles? 16 A. Well, they were done through a variety of 17 hospitals. And in Boston I believe they were all 18 Harvard-affiliated. 19 Q. Can you name the ones that you can 20 remember? 21 A. Spaulding, Mass. General, and I can't 22 remember if Children's was only when I was a 23 veterinary student. It was close to when I had 24 graduated, and since I had rotated through those</p>	<p style="text-align: right;">366</p> <p>1 worked on this fellowship or that supervised you in 2 this fellowship? 3 A. Not supervisors, no. 4 Q. Advised you in this fellowship? 5 A. Well, everyone that I got education from. 6 I would say Dr. Tobis. 7 Q. Who is Dr. Tobis? 8 A. He's physical medicine and rehabilitation. 9 He was at Irvine at the time. 10 Q. And what institution is he connected to? 11 Is that UC Irvine? 12 A. I wouldn't want to say. 13 Q. When you said Irvine, though, were you 14 referring to the city or to an institution? 15 A. Probably both. 16 Q. Irvine, California? 17 A. Yes. 18 Q. And there's a hospital there called Irvine? 19 A. Yes. It has Irvine in the title, so 20 whether it's UC Irvine, I'm not sure. 21 Q. And is he still there? 22 A. Dr. Tobis died recently. 23 Q. Who awarded you the fellowship? 24 A. Well, it wasn't a matter of being awarded.</p>

<p style="text-align: right;">367</p> <p>1 It wasn't a fellowship that I applied for that's</p> <p>2 offered each year. When Dr. Guise came to my farm</p> <p>3 in New Hampshire and reviewed patients with me and</p> <p>4 offered advice in terms of what direction my</p> <p>5 education would best be served by, he created the</p> <p>6 opportunities for me, and especially said, you know,</p> <p>7 "You're not going to qualify -- you can't be a</p> <p>8 resident because you don't have your M.D.; but since</p> <p>9 you've done so much training in human medicine in</p> <p>10 the Boston hospitals while you were a student at</p> <p>11 tests, then it could be organized like a research</p> <p>12 fellowship."</p> <p>13 So the research was done at Homecoming</p> <p>14 Farm at the same time. So the fellowship was not</p> <p>15 one that I needed to apply for. That was simply the</p> <p>16 structure.</p> <p>17 Q. Did the fellowship involve you receiving</p> <p>18 any money?</p> <p>19 A. No.</p> <p>20 Q. Were you compensated for the time you spent</p> <p>21 on rotation?</p> <p>22 A. No.</p> <p>23 Q. To get into a hospital -- are we talking</p> <p>24 about late '80s, early '90s? Is that the time</p>	<p style="text-align: right;">369</p> <p>1 Q. Did you receive a degree?</p> <p>2 A. No.</p> <p>3 Q. Did you receive a certification?</p> <p>4 A. No.</p> <p>5 Q. Did you receive a letter of introduction</p> <p>6 that you used to hand to the hospitals?</p> <p>7 A. No.</p> <p>8 Q. Do you have any correspondence with Dr.</p> <p>9 Guise or Dr. Tobis regarding the fellowship?</p> <p>10 A. No.</p> <p>11 Q. Did you ever have any correspondence?</p> <p>12 A. We corresponded, yes.</p> <p>13 Q. And how did you correspond?</p> <p>14 A. I received some letters.</p> <p>15 Q. And you don't have those letters any more?</p> <p>16 A. No.</p> <p>17 Q. In your letter to Dr. Gillette, you refer</p> <p>18 to a curriculum you had roughed, which essentially</p> <p>19 follows the coursework and clinical rotations in</p> <p>20 human medicine. And I'm reading on Page 3508, the</p> <p>21 last paragraph, first sentence.</p> <p>22 A. Yes.</p> <p>23 Q. What were you referring to by "coursework"?</p> <p>24 A. The coursework would have referred to both</p>
<p style="text-align: right;">368</p> <p>1 period of this fellowship?</p> <p>2 A. Yes, I think so.</p> <p>3 Q. At the time did you need an ID badge to get</p> <p>4 into any of these hospitals?</p> <p>5 A. I don't recall. I don't think so.</p> <p>6 Q. What was your title when you were</p> <p>7 introduced to people at these hospitals?</p> <p>8 A. I don't -- title? I don't know. I guess</p> <p>9 "Dr. Lyons." When you say introduced to people, it</p> <p>10 would be introduced --</p> <p>11 Q. Most people that work in a hospital have</p> <p>12 some relationship, official name to the relationship</p> <p>13 to the hospital. And I don't mean to be speaking --</p> <p>14 You know, you're either an internist or</p> <p>15 a resident or you're an employee or a doctor. Some</p> <p>16 people are affiliated doctors. Some people have lab</p> <p>17 rights or different kinds of rights. I'm trying to</p> <p>18 figure out where you fit in within that</p> <p>19 constellation when you were at the hospital.</p> <p>20 A. I think it's such a unique situation. It's</p> <p>21 not like I plugged into a program.</p> <p>22 Q. Is there any documentation of your</p> <p>23 fellowship?</p> <p>24 A. Not that I'm aware of.</p>	<p style="text-align: right;">370</p> <p>1 the medical school training and postdoctoral</p> <p>2 training.</p> <p>3 Q. Did you have medical school training apart</p> <p>4 from your fellowship?</p> <p>5 A. Yes.</p> <p>6 Q. And when was that?</p> <p>7 A. It was while I was a veterinary student.</p> <p>8 Q. This was what you described yesterday --</p> <p>9 you took some of your Tufts classes with their</p> <p>10 medical school because they didn't have a fully</p> <p>11 developed program at the time for veterinary</p> <p>12 students?</p> <p>13 A. Yes.</p> <p>14 Q. And did you do any coursework connected</p> <p>15 with your fellowship?</p> <p>16 A. Not -- would you help me with --</p> <p>17 Q. Did you go into a class during the</p> <p>18 fellowship and sit there and listen to a lecture?</p> <p>19 A. Yes.</p> <p>20 Q. And was that part of your fellowship?</p> <p>21 A. Well, it was part of the overall</p> <p>22 educational experience. But, for example, grand</p> <p>23 rounds -- I'm trying to figure out whether that</p> <p>24 would be --</p>

<p style="text-align: right;">371</p> <p>1 Q. Well, did you matriculate at any 2 educational institution as part of -- 3 A. No. 4 Q. And did you register for any classes as 5 part of your fellowship? 6 A. No. 7 Q. As the day drags on, I'm going to get more 8 and more incoherent. Let me move on to another 9 document. I'm going to try to move through them. 10 I'll mark this and ask you to take a quick look at 11 it. I'll represent to you this is one of the first 12 emails that I've sought -- first in time that 13 purports to be between you and Dr. Gillette. And my 14 question is, after reviewing this, can you tell me 15 if this is an accurate copy of an exchange between 16 you and him? 17 (Exhibit 33, email chain, marked for 18 identification.) 19 A. It is not. 20 Q. What is it that makes you think that it is 21 not -- 22 Let me ask you this: You see that the 23 top half purports to be an email by Dr. Gillette; 24 correct?</p>	<p style="text-align: right;">373</p> <p>1 documents; but again, 15,000 documents in five days. 2 Q. Excluding a production of documents, have 3 you seen this before? 4 A. No. 5 Q. Do you have any understanding as to how 6 this came into existence? 7 A. Below where it says "Hi, Rob" is not 8 something that I wrote. Whether I wrote an email to 9 him at this time -- that may have happened. 10 Q. And if there was an email written to him at 11 this time, do you have those emails? 12 A. No, I don't. 13 Q. Let me ask the question again: Do you have 14 any knowledge, other than what you just said, as to 15 how this nonauthentic document, that you're 16 testifying is nonauthentic, came into existence? 17 A. No, I don't. It's your document. 18 Q. Well, I realize that we produced it, but 19 I'm asking you if you have -- you could have 20 knowledge of how a document I produced was created; 21 right? I'm asking you if you have knowledge -- 22 We produced copies of the Equine 23 Excellence Initiative, for instance. You know how 24 that was created. And what I'm asking you is: Do</p>
<p style="text-align: right;">372</p> <p>1 A. Yes. 2 Q. And the bottom half purports to be an email 3 from you; is that right? 4 A. Yes. 5 Q. And -- 6 A. And -- no, I'm sorry. 7 Q. Is there any part of this email that you 8 remember actually being sent to you? 9 A. Well, actually, as I view this, this is a 10 copy of an email that Dr. Gillette has sent to 11 himself. 12 Q. And what is it that leads you to believe 13 that? 14 A. Because the From address is from Dr. 15 Gillette, and there's a cc to Canine Care, which I 16 believe is Dr. Gillette. 17 Q. And is the address 18 homecomingfarm@medione.net one of your email 19 addresses? 20 A. Oh, yes, that's -- yes. 21 Q. Does that change your answer? 22 A. No. 23 Q. You've never seen this before? 24 A. I may have seen it in your production of</p>	<p style="text-align: right;">374</p> <p>1 you or do you not have knowledge as to how this 2 document, which you have identified as inauthentic, 3 was created? 4 A. I would say that it's been altered. 5 Q. And what is the basis for that statement? 6 A. Because I certainly did not write "Ph.D." 7 after my name. And I don't know -- "Hope all is 8 well and you are enjoying the holidays" -- I don't 9 recall enough of the substance of -- so I could say 10 how much of Paragraph 1.... 11 Q. Let me ask you a question: Do you believe 12 that you did send Dr. -- do you have a memory of 13 sending Dr. Gillette an email that was similar to 14 this but in which you did not refer to yourself as a 15 Ph.D.? 16 A. I have a memory of sending many emails to 17 Dr. Gillette, and in none of them did I indicate 18 that I had a Ph.D. 19 Q. Well, I'm asking specifically about this 20 one. Do you have a specific memory of at 21 approximately this date sending him an email which 22 had that substance in it but did not have the term 23 "Ph.D." in it? 24 A. I don't have a memory of that specific</p>

<p style="text-align: right;">375</p> <p>1 information.</p> <p>2 Q. Okay. You can put that aside. Let me mark</p> <p>3 a new document.</p> <p>4 (Exhibit 34, email, marked for</p> <p>5 identification.)</p> <p>6 Q. Once you've had a chance to look at that,</p> <p>7 let me know.</p> <p>8 (Recess taken.)</p> <p>9 Q. Have you had a chance to look at Exhibit</p> <p>10 34?</p> <p>11 A. I'm not finished reading.</p> <p>12 Q. Have you had a chance to look at it?</p> <p>13 A. Yes.</p> <p>14 Q. Did you send this email?</p> <p>15 A. I believe so.</p> <p>16 Q. And it refers in the first paragraph to</p> <p>17 "and a new laptop, which was overdue, so I lost all</p> <p>18 until I get my -- back to my backup files on CD."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And it says, "Computer crashed just after I</p> <p>22 sent it." Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Does this refresh your memory as to when</p>	<p style="text-align: right;">377</p> <p>1 A. Yes.</p> <p>2 Q. Have you searched those CD's in response to</p> <p>3 the document request in this case?</p> <p>4 A. I actually searched those CD's in a</p> <p>5 previous matter, to try to get information off of</p> <p>6 them. And I had never tested those CD's after</p> <p>7 creating them. I can't remember how it would work.</p> <p>8 But when the data that you were asking to transfer</p> <p>9 would download and a CD would fill up, you'd get</p> <p>10 prompted, and it would say the information has been</p> <p>11 transferred, put in another CD.</p> <p>12 So I never tested them. And later, when</p> <p>13 I tried to access data off of them, it was like</p> <p>14 hieroglyphics.</p> <p>15 Q. Where are those CD's today?</p> <p>16 A. When that happened, I disposed of them.</p> <p>17 Q. And approximately when was that?</p> <p>18 A. 2002, 2003.</p> <p>19 Q. I'm going to show you another document.</p> <p>20 We'll mark it.</p> <p>21 (Exhibit 35, email, marked for</p> <p>22 identification.)</p> <p>23 A. Yes.</p> <p>24 Q. Have you had a chance to look at it?</p>
<p style="text-align: right;">376</p> <p>1 your computer crashed -- in and around late 2002?</p> <p>2 A. Yes.</p> <p>3 Q. I think before you mentioned that you might</p> <p>4 have gotten a new computer for Christmas that year.</p> <p>5 Correct?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know what you're referring to here</p> <p>8 by "the backup files on CD"?</p> <p>9 A. I do.</p> <p>10 Q. And what are those?</p> <p>11 A. I had an external CD write drive, and the</p> <p>12 reason that I got it was to back up my documents.</p> <p>13 So as I would go along, I would create new CDs to</p> <p>14 back up my computer's data periodically, as I added</p> <p>15 files to it.</p> <p>16 Q. And what data specifically? Were you</p> <p>17 selective, or did you back up the whole hard drive?</p> <p>18 A. No, it was onto CD. It's limited storage</p> <p>19 space.</p> <p>20 Q. Did you back up emails?</p> <p>21 A. No.</p> <p>22 Q. Did you back up client files?</p> <p>23 A. Yes.</p> <p>24 Q. Did you back up files for Homecoming Farm?</p>	<p style="text-align: right;">378</p> <p>1 A. Yes.</p> <p>2 Q. This purports to be an email that Dr.</p> <p>3 Gillette sent from one of his accounts to another;</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And then underneath it it purports to be</p> <p>7 forwarding an email from you dated December 22nd,</p> <p>8 2002. That's what it purports to be. Correct?</p> <p>9 A. Yes.</p> <p>10 Q. Is this an email that you sent?</p> <p>11 A. Yes, I believe it is.</p> <p>12 Q. And if you look at the second paragraph of</p> <p>13 what you sent, it says, "Anyway, I hope you get</p> <p>14 this. I'm on a plane in flight as we write. Left</p> <p>15 that file behind but will rewrite more or less and</p> <p>16 send them from here. A long flight. Won't look</p> <p>17 like a professional resume, but that's not what you</p> <p>18 need." Do you see that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Now, did you around this time promise to</p> <p>21 send him some kind of resume?</p> <p>22 A. Yes.</p> <p>23 Q. And did you? Do you have a memory of</p> <p>24 sending him anything?</p>

<p style="text-align: right;">379</p> <p>1 A. No. I have a memory of not being able 2 to -- I believe I was going to England -- make any 3 attachments while I was there. So no, I was -- 4 Q. Did you send -- I'm sorry. Go ahead. 5 A. I had given him previous to this some very 6 basic information. It wasn't an official resume. 7 Q. And did you -- did you send him any 8 information, biographical information or CV 9 information in the body of an email? 10 A. I don't recall. 11 Q. When were you in England, how long? 12 A. I don't recall. 13 Q. Was it weeks, months? 14 A. I don't recall. 15 Q. I'm going to mark another document. 16 (Exhibit 36, email and attachment, 17 marked for identification.) 18 Q. I am going to ask you to look through this 19 document. I am going to ask you questions about the 20 substance of it. 21 Have you had a chance to look at it? 22 A. Yes, I have. 23 Q. And this again purports to be -- the top 24 level purports to be an email of Dr. Gillette</p>	<p style="text-align: right;">381</p> <p>1 Q. And I recognize that the third line on this 2 document is Ph.D. Physics 1981. Do you see that? 3 A. Yes. 4 Q. And you, of course, would maintain that you 5 did not write any document with that on it; correct? 6 A. Yes, I did not write this document. 7 Q. Is there anything else in this document 8 other than that line that is inaccurate, whether or 9 not you wrote it? 10 A. Yes. 11 Q. What is that? 12 A. The fellowship completed in 1996. That 13 would have been 1992. 14 Q. Did you take examinations in connection 15 with your fellowship? 16 A. No. 17 Q. Anything else? 18 A. I would not have -- it's not correct to say 19 "Efforts and focus of Homecoming Farm since 1996 has 20 been in the creation of a veterinary specialty in 21 sports medicine and rehabilitation." 22 Q. What is incorrect about that statement? 23 A. I guess it doesn't say through AVMA, does 24 it? So I'm projecting that, so....</p>
<p style="text-align: right;">380</p> <p>1 forwarded from one of his accounts to another. Do 2 you agree with that? 3 A. I agree. 4 Q. And the bottom part of the first page 5 purports to be an email dated December 22nd, 2002, 6 from you to Dr. Gillette. That's what it purports 7 to be. Right? 8 A. Yes. 9 Q. Is that what it is? 10 A. I believe so. 11 Q. You did send him this email? 12 A. Yes. 13 Q. Now, attached to the email is an 14 attachment. Did you send him this attachment? 15 A. No, I did not. 16 Q. Did you send him an email with any 17 attachment? 18 A. At some point I did, yes. 19 Q. And do you have that attachment? 20 A. No, I don't. 21 Q. Obviously this purports to be, the second 22 two pages, a CV or resume for you; correct? That's 23 what it purports to be? 24 A. Yes.</p>	<p style="text-align: right;">382</p> <p>1 Q. So had it implied AVMA, it would have been 2 incorrect? 3 A. Well, it would have, because that didn't 4 start in 1996. 5 Q. Did you have a written resume as of this 6 time period, January 8th, 2003, or approximately? 7 A. Not an official one, no. 8 Q. Did you have a written one of any type, 9 official or otherwise? 10 A. Yes. 11 Q. Do you still have copies of that? 12 A. It's in the Equine Excellence Initiative. 13 There's a bio section. 14 Q. And that's the one you used at the time? 15 A. Yes. 16 Q. Let me mark another document. Again, I 17 apologize for moving so quickly. 18 (Exhibit 37, email, marked for 19 identification.) 20 Q. Have you had a chance to look at this 21 document? 22 A. Yes. 23 Q. Now, this is a document that purports to be 24 an exchange between you and Dr. Gillette in or</p>

<p style="text-align: right;">383</p> <p>1 around January 18th, 2003. That's what it purports  2 to be; correct?  3 A. Yes.  4 Q. And do you recall having this exchange with  5 him?  6 A. No, I don't.  7 Q. Is any part of this -- do you recall having  8 any part of this exchange with Dr. Gillette?  9 A. I don't recall this exchange, but I can say  10 that the top paragraph is something that I may have  11 written. We exchanged a lot of emails, so I don't  12 have specific recall of content of any of them.  13 Q. So the top part -- in other words, the part  14 in caps, all caps, that may be something you typed.  15 Is that correct?  16 A. Yes.  17 Q. So you may have sent Dr. Gillette --  18 Let me ask you this: Do you know a  19 person named Mohammed in Saudi Arabia?  20 A. Not in Saudi.  21 Q. Do you know a person named Mohammed  22 somewhere in the Middle East --  23 A. Yes.  24 Q. -- whom you believe you might have been</p>	<p style="text-align: right;">385</p> <p>1 article in Blood Horse Magazine?  2 A. Yes.  3 Q. Other than articles in Blood Horse, are you  4 published anywhere?  5 A. Yes. I've written articles for websites,  6 for other publications, yes.  7 Q. Other magazines?  8 A. Yes.  9 Q. Let me show you another document.  10 (Exhibit 38, email, marked for  11 identification.)  12 Q. Have you had a chance to look at it?  13 A. Yes, I have.  14 Q. This is another email that purports to be  15 an exchange between you and Dr. Gillette? Or,  16 rather, I should say, it purports to be an email  17 from you to Dr. Gillette at some point. Is that  18 correct?  19 A. Yes.  20 Q. And did you send this email?  21 A. Yes.  22 Q. Did you at some point complain about the  23 alphabetical or the nonalphabetical listing on the  24 letter of intent?</p>
<p style="text-align: right;">384</p> <p>1 referring to in this email?  2 A. Yes.  3 Q. And who is Mohammed?  4 A. Mohammed is just an assistant to Dr. al  5 Redha.  6 Q. And Dr. al Redha is on your advisory board;  7 correct?  8 A. Yes.  9 Q. If you go down to the second page, where it  10 says "authorship" -- and let me just ask you:  11 Putting aside this answer, which says --  12 What academic and scientific  13 publications have you authored?  14 A. I've presented papers at conferences, so  15 the proceedings would be considered a scientific  16 paper.  17 Q. Any journals?  18 A. No.  19 Q. How about -- that's -- let me break it  20 down. Veterinary journals?  21 A. No.  22 Q. How about human medicine journals?  23 A. No.  24 Q. I know you've said you've published an</p>	<p style="text-align: right;">386</p> <p>1 A. Yes.  2 Q. And this represented something you talked  3 about with Mr. Dickison yesterday, I think? And  4 tell me this is wrong -- which is the back and forth  5 on the contents of the letter of intent?  6 A. Yes.  7 Q. And different people were contributing  8 different parts?  9 A. Yes.  10 Q. And Dr. Gillette put in, for instance, a  11 paragraph about dogs, you had testified?  12 A. Yes.  13 Q. And here you are also correcting some  14 grammar in one of those paragraphs?  15 A. Yes.  16 Q. And then it also refers to, "PS on my  17 associations and memberships." Did you also author  18 this PS?  19 A. Yes.  20 Q. I'm looking about halfway down. It says,  21 "I have also taught many physics college courses,  22 from premedicine physics to engineering graduate...  23 relativity, and then 'physics for poets' and chaos  24 theory for business school (MBA) and psychology</p>

<p style="text-align: right;">387</p> <p>1 (Ph.D.). What colleges did you teach at?</p> <p>2 A. It was part of my undergraduate training at</p> <p>3 University of Massachusetts.</p> <p>4 Q. What specifically was your role?</p> <p>5 A. I was a student and was doing a research</p> <p>6 project in physics and as part of that research</p> <p>7 project was asked to do some teaching-assistant</p> <p>8 responsibilities and lectured in those courses.</p> <p>9 Q. Which courses were they?</p> <p>10 A. I know physics for poets, relativity.</p> <p>11 Q. And who was the faculty member who was the</p> <p>12 professor of those courses?</p> <p>13 A. I believe that was Ted Soltysik.</p> <p>14 Q. Is he still there?</p> <p>15 A. No.</p> <p>16 Q. Where is he now?</p> <p>17 A. I believe he died. I graduated in, what,</p> <p>18 1979.</p> <p>19 Q. And you lectured to Ph.D. students; is that</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. Was this all in one class, or was this in</p> <p>23 several classes?</p> <p>24 A. They were individual lectures in different</p>	<p style="text-align: right;">389</p> <p>1 lecture on chaos theory?</p> <p>2 A. Actually, the business school had a science</p> <p>3 course, so I guess you'd say that -- I think the</p> <p>4 business school was just integrated in with the rest</p> <p>5 of the university.</p> <p>6 Q. Have you ever heard of an organization</p> <p>7 called HOOFPAC?</p> <p>8 A. Yes, I have.</p> <p>9 Q. What is that?</p> <p>10 A. HOOFPAC is an antislaughter....</p> <p>11 Q. Are you a supporter of HOOFPAC?</p> <p>12 A. I've told the founder that, yes, she can</p> <p>13 use my name in support.</p> <p>14 Q. What do they do? They list names?</p> <p>15 A. I don't know.</p> <p>16 Q. And what was the context of you telling the</p> <p>17 founder that they could list your name?</p> <p>18 A. Because we discussed the antislaughter</p> <p>19 legislation. I let her know that I was supportive</p> <p>20 of what she was endeavoring to do and said that she</p> <p>21 could use my name and list me as a supporter.</p> <p>22 Q. And when was that?</p> <p>23 A. I don't recall.</p> <p>24 Q. Was it within the last year?</p>
<p style="text-align: right;">388</p> <p>1 courses, as I recall.</p> <p>2 Q. And how many teaching assistants were there</p> <p>3 that lectured in these classes?</p> <p>4 A. A few. I don't recall.</p> <p>5 Q. Did they break down into sections? Do you</p> <p>6 know what I mean by that?</p> <p>7 A. No.</p> <p>8 Q. In other words, when I went to college, we</p> <p>9 had a professor give a lecture, and then we had the</p> <p>10 graduate students run sections made up of parts of</p> <p>11 the class. Is that the structure?</p> <p>12 A. Not that I recall.</p> <p>13 Q. So you stood up in front of the class and</p> <p>14 gave a lecture?</p> <p>15 A. Yes.</p> <p>16 Q. And other graduate students stood up in</p> <p>17 front of the class and gave a lecture?</p> <p>18 A. Yes.</p> <p>19 Q. And how many lectures per semester did you</p> <p>20 give?</p> <p>21 A. I don't recall.</p> <p>22 Q. How many semesters did you do it for?</p> <p>23 A. I don't recall.</p> <p>24 Q. Did you go to the business school and</p>	<p style="text-align: right;">390</p> <p>1 A. Oh, no.</p> <p>2 Q. It was many years ago?</p> <p>3 A. Many years ago.</p> <p>4 Q. I want to refer back to Exhibit 10 for a</p> <p>5 moment, which is the final letter of intent to the</p> <p>6 AVMA. We looked at this document yesterday;</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. My question to you is really a followup</p> <p>10 question: You mentioned yesterday that after you</p> <p>11 spoke -- that after you obtained a copy of this</p> <p>12 letter, you spoke to Dr. Gillette about correcting</p> <p>13 your credentials. Is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And did you follow up with him at all after</p> <p>16 that?</p> <p>17 A. Not that I recall.</p> <p>18 Q. That was my only question about that.</p> <p>19 We'll mark another document.</p> <p>20 (Exhibit 39, email, marked for</p> <p>21 identification.)</p> <p>22 Q. Have you had a chance to look at it?</p> <p>23 A. Yes.</p> <p>24 Q. And can you tell me if this is a document</p>

<p style="text-align: right;">391</p> <p>1 you recall receiving?</p> <p>2 A. I don't have a specific recall of this</p> <p>3 document, but I remember receiving these types of</p> <p>4 emails.</p> <p>5 Q. Anything in this email written by Dr.</p> <p>6 Gillette that seems incorrect or untrue to you?</p> <p>7 A. No.</p> <p>8 Q. And he mentions here that he's begun to put</p> <p>9 together a core curriculum based on a design by the</p> <p>10 Human Sports Medicine Specialty Board that was</p> <p>11 provided by Dr. Lyons. What was that document?</p> <p>12 A. I believe I provided it in our document</p> <p>13 production. I don't remember the name of it.</p> <p>14 Q. And the curriculum, this is the curriculum</p> <p>15 you were working on for the ACVSMR; is that correct?</p> <p>16 A. I had already developed a curriculum prior</p> <p>17 to this. And the curriculum that I believe Dr.</p> <p>18 Gillette is referring to is based on the specific</p> <p>19 AVMA requirements for presenting a curriculum.</p> <p>20 Q. Why would he be following a human medical</p> <p>21 specialty board curriculum in order to comply with</p> <p>22 AVMA requirements?</p> <p>23 A. Well, in other words, he says, "I have</p> <p>24 begun to put together a core curriculum." And I had</p>	<p style="text-align: right;">393</p> <p>1 Q. And who specifically are you referring to?</p> <p>2 A. It would have been Dr. Guise, Dr. Richmond,</p> <p>3 and I don't recall.</p> <p>4 Q. Who is Dr. Richmond?</p> <p>5 A. Dr. Richmond is a physician, a surgeon, at</p> <p>6 Tufts.</p> <p>7 Q. Is he still at Tufts?</p> <p>8 A. No, I don't think he is.</p> <p>9 Q. Do you know where he is now?</p> <p>10 A. He may be at Children's or something like</p> <p>11 that.</p> <p>12 Q. Is he still on your advisory board?</p> <p>13 A. Well, it wasn't -- again, it's an advisory</p> <p>14 board, but these are advisers to ACVSMR.</p> <p>15 Q. Let me ask you this: Does Dr. Richards --</p> <p>16 is it Dr. Richards?</p> <p>17 A. Richmond.</p> <p>18 Q. Richmond. I'm sorry. I can't read my own</p> <p>19 handwriting at this time of day. Does Dr. Richmond</p> <p>20 know he's referred to as an advisory board member,</p> <p>21 as opposed to advising you from time to time on</p> <p>22 things?</p> <p>23 A. Well, I didn't name Dr. Richmond in here.</p> <p>24 That's why I wanted to clarify that he would have</p>
<p style="text-align: right;">392</p> <p>1 based the curriculum that I had developed and the</p> <p>2 rest of the documents on an augmentation, an</p> <p>3 adaptation of the human model for training.</p> <p>4 Q. And what organization was that human model</p> <p>5 from?</p> <p>6 A. I don't recall. I'd need the document.</p> <p>7 Q. Was that a document you had authored or was</p> <p>8 authored by somebody else?</p> <p>9 A. No, that was authored by someone else.</p> <p>10 Q. Let me mark another document.</p> <p>11 (Exhibit 40, email, marked for</p> <p>12 identification.)</p> <p>13 Q. Have you had a chance to look at this</p> <p>14 document?</p> <p>15 A. Yes, I have.</p> <p>16 Q. Did you send this email on December 9th,</p> <p>17 2003?</p> <p>18 A. Yes. I'm not -- yes.</p> <p>19 Q. In the second-to-last paragraph it refers</p> <p>20 to, "my board (the M.D.'s who formed the same in</p> <p>21 human med)." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. What are you referring to there?</p> <p>24 A. Advisory board.</p>	<p style="text-align: right;">394</p> <p>1 been an adviser to it. The board member who would</p> <p>2 have contributed to this but who was not part of</p> <p>3 that specialty is Dr. John Mack.</p> <p>4 Q. At some time when you were working on the</p> <p>5 bylaws and articles of incorporation for the ACVSMR,</p> <p>6 that we discussed earlier today, did you contact</p> <p>7 anyone from AVMA to get samples?</p> <p>8 A. I don't understand "samples."</p> <p>9 Q. Well, sample articles of incorporation or</p> <p>10 bylaws.</p> <p>11 A. I don't recall.</p> <p>12 Q. I've gotten a little disorganized. Could</p> <p>13 we take a five-minute break, and I can go faster</p> <p>14 after that.</p> <p>15 (Recess taken.)</p> <p>16 (Ms. Klieman left the deposition.)</p> <p>17 Q. You mentioned that you hired a lawyer named</p> <p>18 Paul Feinberg; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. This was -- you hired him in connection</p> <p>21 with drafting the bylaws and constitution for the</p> <p>22 college; correct?</p> <p>23 A. Actually, I hired him to advise us and</p> <p>24 then, should we go forward, to help to draft it or</p>

<p style="text-align: right;">395</p> <p>1 to review my draft of them.</p> <p>2 Q. Had you engaged Mr. Feinberg prior to this?</p> <p>3 A. No.</p> <p>4 Q. How did you find him?</p> <p>5 A. The prosecutor in the Attorney General's</p> <p>6 Office in Ohio they'd testified for suggested after</p> <p>7 I worked with her on that case that if I ever needed</p> <p>8 a nonprofit attorney, that she would be able to</p> <p>9 recommend one, because he was the head of the bar</p> <p>10 association for that subject.</p> <p>11 Q. And that explains why he's located in Ohio;</p> <p>12 correct?</p> <p>13 A. It would explain why she would know him,</p> <p>14 yes.</p> <p>15 Q. Did he help you draft any of the articles</p> <p>16 of incorporation or bylaws?</p> <p>17 A. No.</p> <p>18 Q. Did any of his partners or associates help</p> <p>19 you draft them?</p> <p>20 A. No.</p> <p>21 Q. I don't need to mark that. I now want to</p> <p>22 mark this, however, as 41.</p> <p>23 (Exhibit 41, letter, marked for</p> <p>24 identification.)</p>	<p style="text-align: right;">397</p> <p>1 Q. Would these people be engaged, had you</p> <p>2 engaged them -- strike that.</p> <p>3 Let me move ahead to the Chicago</p> <p>4 meeting. I'm going to mark this -- I know the front</p> <p>5 page has already been marked, but I specifically</p> <p>6 want to show you some sections that haven't been</p> <p>7 marked.</p> <p>8 (Exhibit 42, Organizational Meeting</p> <p>9 notes, marked for identification.)</p> <p>10 MR. LYONS: You said that this has been</p> <p>11 previously marked, but this exhibit contains</p> <p>12 additional pages?</p> <p>13 MR. KLUFT: The first two pages have</p> <p>14 been marked, and then there are additional pages</p> <p>15 after that.</p> <p>16 MR. LYONS: And that is all part of the</p> <p>17 same document?</p> <p>18 MR. KLUFT: As it was produced to me by</p> <p>19 my client, yes.</p> <p>20 Q. I'm going to ask you to take a look at</p> <p>21 Pages 485 through to the end, 500. And I want you</p> <p>22 to tell me if these are the articles of</p> <p>23 incorporation and bylaws that you presented at the</p> <p>24 Chicago meeting.</p>
<p style="text-align: right;">396</p> <p>1 Q. I'm not going to ask you to read the terms</p> <p>2 of this. Dr. Lyons, do you know the firm -- the</p> <p>3 marketing firm of Schultz &amp; Williams, Inc.?</p> <p>4 A. Yes.</p> <p>5 Q. And did you engage them at some point in</p> <p>6 2004?</p> <p>7 A. Can you define "engage"?</p> <p>8 Q. Can you communicate with them in 2004?</p> <p>9 A. Yes, I did.</p> <p>10 Q. For what purpose did you communicate?</p> <p>11 A. To explore the possibility of working with</p> <p>12 them as a development consultant for our project.</p> <p>13 Q. When you say "our project," what are you</p> <p>14 referring to?</p> <p>15 A. Homecoming Farm -- I'm just reading my own</p> <p>16 note to myself here. It would have been for the</p> <p>17 ACVSMR project and the ACVSMR foundation.</p> <p>18 Q. And this is your handwriting at the top of</p> <p>19 the page here?</p> <p>20 A. Yes, it is.</p> <p>21 Q. Would that have had anything to do with the</p> <p>22 college to be recognized by the AVMA?</p> <p>23 A. Whether or not the ACVSMR project ended up</p> <p>24 being recognized by the AVMA was not yet determined.</p>	<p style="text-align: right;">398</p> <p>1 A. Without my copy of what I brought to the</p> <p>2 Chicago meeting, I wouldn't know whether this was</p> <p>3 what I brought with notes added onto it or --</p> <p>4 Q. That's an excellent point. Let me rephrase</p> <p>5 it. I'll represent to you that my understanding is</p> <p>6 these are handwritten notes of Dr. Gillette's. And</p> <p>7 what I'm asking you is -- I don't have any other</p> <p>8 copy of what was actually handed out at that</p> <p>9 meeting. And what I'm asking you is: Absent the</p> <p>10 handwritten notes, is this the version you brought</p> <p>11 to Chicago, as far as you know?</p> <p>12 A. To the best of my recollection, yes.</p> <p>13 Q. You can put that document aside. That's</p> <p>14 all I wanted to know. I apologize for that. I</p> <p>15 meant to mention the handwritten notes. It's late</p> <p>16 in the day.</p> <p>17 I want to show you another document.</p> <p>18 (Exhibit 43, email, marked for</p> <p>19 identification.)</p> <p>20 Q. Have you had a chance to review that</p> <p>21 document?</p> <p>22 A. Yes, I have.</p> <p>23 Q. And this is another document that purports</p> <p>24 to be an email exchange between you and Dr.</p>

<p style="text-align: right;">399</p> <p>1 Gillette; is that correct?</p> <p>2 A. That's correct.</p> <p>3 Q. And did you -- to your memory, is this an</p> <p>4 accurate copy of an exchange between you and Dr.</p> <p>5 Gillette?</p> <p>6 A. Yes.</p> <p>7 Q. Did you recommend, for instance, Johanna</p> <p>8 Reimer and Steve Allday --</p> <p>9 A. Allday.</p> <p>10 Q. Allday -- I'm sorry, to be members of the</p> <p>11 organizing committee?</p> <p>12 A. Yes, I did.</p> <p>13 Q. Did they become members of the organizing</p> <p>14 committee?</p> <p>15 A. No, they did not.</p> <p>16 Q. And why is that?</p> <p>17 A. Well, based on the date, I would say that</p> <p>18 it's because I was removed by Dr. Gillette.</p> <p>19 Q. And at this time were you upset with Dr.</p> <p>20 Gillette for any reason?</p> <p>21 A. Not that I recall. You know, this is -- I</p> <p>22 don't understand why he's saying that based on what</p> <p>23 I've reviewed quickly down below.</p> <p>24 Q. Let me show you another document. I don't</p>	<p style="text-align: right;">401</p> <p>1 recognized veterinary specialty board but to help</p> <p>2 provide seed money to universities to help them to</p> <p>3 begin to develop the programs that would then become</p> <p>4 residencies.</p> <p>5 So while I don't remember it as a</p> <p>6 check -- we're talking about almost ten years ago --</p> <p>7 I do recall having a commitment in that range of</p> <p>8 donation.</p> <p>9 Q. But you don't remember a specific \$500,000</p> <p>10 check.</p> <p>11 A. I just don't have....</p> <p>12 Q. I'm sorry, go ahead.</p> <p>13 A. I don't specifically recall that.</p> <p>14 Q. It says here, after it mentions the</p> <p>15 \$500,000 check, it says "Especially since it was</p> <p>16 given based on my history but pulled because of my</p> <p>17 current position." Do you know what that meant?</p> <p>18 A. I have no idea. It's clearly talking about</p> <p>19 something that is much more substantive than I'm</p> <p>20 reading in this email.</p> <p>21 Q. Were you getting flak from your board at</p> <p>22 this time for not being more assertive?</p> <p>23 A. I don't recall.</p> <p>24 Q. Were you losing their confidence "after 15</p>
<p style="text-align: right;">400</p> <p>1 know if -- this may or may not give you additional</p> <p>2 context for it.</p> <p>3 (Exhibit 44, email, marked for</p> <p>4 identification.)</p> <p>5 Q. Have you had a chance to review it?</p> <p>6 A. Yes, I have.</p> <p>7 Q. Is this an email that you sent to Dr.</p> <p>8 Gillette in or around May 28th, 2004?</p> <p>9 A. Actually, it's a copy of an email that Dr.</p> <p>10 Gillette sent to himself.</p> <p>11 Q. And within that copy, is that an accurate</p> <p>12 copy of an email that you sent?</p> <p>13 A. Yes, I'd say so. I don't have specific</p> <p>14 recall of it, but reading it, yes.</p> <p>15 Q. Now, it refers here to a \$500,000 check</p> <p>16 that was redirected. Do you see that?</p> <p>17 A. Yes, I do.</p> <p>18 Q. Do you know what that refers to?</p> <p>19 A. I don't.</p> <p>20 Q. Do you recall ever having a \$500,000 check</p> <p>21 redirected?</p> <p>22 A. Well, what I recall is that I was meeting</p> <p>23 with philanthropists about endowing the ACVSMR and</p> <p>24 specifically to help us to launch not only the</p>	<p style="text-align: right;">402</p> <p>1 years of development of our human/vet specialty</p> <p>2 initiative"?</p> <p>3 A. I don't recall.</p> <p>4 Q. Has anyone on your board ever given you</p> <p>5 flak?</p> <p>6 A. I don't think today I would refer to</p> <p>7 anything as flak. But certainly there have been</p> <p>8 some disagreements.</p> <p>9 Q. But you don't remember any flak, however</p> <p>10 referred to, around that time?</p> <p>11 A. Well, you know, I don't remember the</p> <p>12 specific events that this email is referring to.</p> <p>13 Q. Did anyone from your board or any of your</p> <p>14 donors ever tell you you would have to go separate?</p> <p>15 A. Where are you seeing this?</p> <p>16 Q. I'm sorry. I thought I was reading it from</p> <p>17 here, but I might have gotten it from another</p> <p>18 paragraph.</p> <p>19 Let me ask you a different question. If</p> <p>20 you look at the last paragraph, it talks about a</p> <p>21 "very complex transition for me." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And the word "very" is in capital letters;</p> <p>24 correct?</p>

<p style="text-align: right;">403</p> <p>1 A. Yes.</p> <p>2 Q. What were you referring to by "very complex</p> <p>3 transition"?</p> <p>4 A. I do not recall.</p> <p>5 Q. Do you know if you were referring to the</p> <p>6 transition of the ACVSMR project into an independent</p> <p>7 organization with its own bylaws and articles of</p> <p>8 incorporation?</p> <p>9 A. No, I don't recall that.</p> <p>10 Q. You don't recall whether you were referring</p> <p>11 to that, or you just don't know? I'm sorry; that</p> <p>12 was a bad question. You know that you were not</p> <p>13 referring to that, or you just don't recall?</p> <p>14 A. I don't recall. And since that last</p> <p>15 paragraph seems to relate to the entire substance in</p> <p>16 the email, it would not be possible for me to say.</p> <p>17 Q. I'm going to mark this as Exhibit 45.</p> <p>18 (Exhibit 45, email, marked for</p> <p>19 identification.)</p> <p>20 Q. Before I ask you about this document, I</p> <p>21 forgot to ask you something else. Can I ask you a</p> <p>22 question that has nothing to do with this document?</p> <p>23 And then I'll give you a chance to read it.</p> <p>24 Are there any documents that you're</p>	<p style="text-align: right;">405</p> <p>1 organizing committee members --</p> <p>2 There would be an administrative board</p> <p>3 over the corporation, and then there would be a</p> <p>4 board, which would have been our organizing</p> <p>5 committee members, who would be responsible for</p> <p>6 maintaining the necessary requirements with AVMA.</p> <p>7 Q. I need to back up. "An administrative</p> <p>8 board over the corporation," I think were your</p> <p>9 words. What corporation did you mean?</p> <p>10 A. If I had continued and separately</p> <p>11 incorporated ACVSMR instead of simply letting it</p> <p>12 remain within Homecoming Farm --</p> <p>13 Q. That's what we're talking about.</p> <p>14 A. Exactly. AVMA required an independent</p> <p>15 corporation to be formed. So the way that it would</p> <p>16 still remain a project of Homecoming Farm is that</p> <p>17 Homecoming Farm would choose who the board members</p> <p>18 would be for this new corporation.</p> <p>19 Q. So post organizing committee, it would</p> <p>20 actually be up to Homecoming Farm to decide whether</p> <p>21 or not these people who had been on the organizing</p> <p>22 committee would remain and be on the board of the</p> <p>23 new incorporated college; correct?</p> <p>24 A. Well --</p>
<p style="text-align: right;">404</p> <p>1 aware of that explain what the relationship was</p> <p>2 going to be between Homecoming Farm and the</p> <p>3 incorporated college?</p> <p>4 A. Yes.</p> <p>5 Q. What is that document?</p> <p>6 A. Well, the letter from Attorney Feinberg.</p> <p>7 Q. Are there any other documents that you're</p> <p>8 aware of that discuss that relationship -- in other</p> <p>9 words, how the two were going to interact after the</p> <p>10 formation of the college into an incorporation?</p> <p>11 A. Not that I recall.</p> <p>12 Q. And in your mind, in your memory, as you</p> <p>13 sit here today, what was your understanding of that</p> <p>14 relationship? And let me get a little more specific</p> <p>15 than that, because I know you've talked in general</p> <p>16 that one would be a project of the other. Was the</p> <p>17 board of Homecoming Farm going to be able to direct</p> <p>18 the activities of the board of the college?</p> <p>19 A. The board of Homecoming Farm would name the</p> <p>20 board of the new corporation, and it would remain a</p> <p>21 project of Homecoming Farm.</p> <p>22 Now, the board of Homecoming Farm</p> <p>23 wouldn't direct, for example, the specific tasks</p> <p>24 that the professional board of ACVSMR -- meaning the</p>	<p style="text-align: right;">406</p> <p>1 Q. So, for instance, Dr. Gillette -- Dr.</p> <p>2 Clayton, let's say, was on the organizing committee;</p> <p>3 correct? And after that the issue was whether she</p> <p>4 was going to be on the board of the newly</p> <p>5 incorporated college. Right? That would be one</p> <p>6 issue that would have to be decided by Homecoming</p> <p>7 Farm; correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay, I understand. Was it also your</p> <p>10 vision that the Homecoming Farm continued to offer</p> <p>11 farrier courses or courses to farriers and continue</p> <p>12 towards its plans for farrier certification?</p> <p>13 A. Yes.</p> <p>14 Q. And would that also be under the mark</p> <p>15 ACVSMR?</p> <p>16 A. Yes.</p> <p>17 Q. And was it your plan to actually offer</p> <p>18 classes to veterinarians?</p> <p>19 A. Yes.</p> <p>20 Q. On a campus?</p> <p>21 A. Yes.</p> <p>22 Q. And this was the project you talked about</p> <p>23 maybe buying property, maybe somewhere in Florida;</p> <p>24 correct?</p>

<p style="text-align: right;">407</p> <p>1 A. Yes.</p> <p>2 Q. Was the -- now, you mentioned the</p> <p>3 administrative board. That's not separate from the</p> <p>4 Homecoming Farm board? Is that something separate</p> <p>5 from the Homecoming Farm board and the board of the</p> <p>6 college? Is that a third body? I'm just trying to</p> <p>7 understand.</p> <p>8 A. I need the question again.</p> <p>9 Q. So the college, incorporated college board</p> <p>10 would answer directly to the Homecoming Farm board;</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. There's not another board in between them.</p> <p>14 A. No, but there would be a nonadministrative</p> <p>15 board. It's just the terms that I use for it --</p> <p>16 which would be the -- for example, the organizing</p> <p>17 committee would then be the equivalent of an</p> <p>18 advisory board but not have the power one way or the</p> <p>19 other to administer the corporation.</p> <p>20 Q. Okay. So it would actually be administered</p> <p>21 by Homecoming Farm.</p> <p>22 A. Well, it would be administered</p> <p>23 independently because it would be an independent</p> <p>24 corporation.</p>	<p style="text-align: right;">409</p> <p>1 they're not doing something you like, you can remove</p> <p>2 them. Correct? If you have the power to appoint</p> <p>3 the board, you can remove them if they're....</p> <p>4 A. No, once it would be independent, then that</p> <p>5 board -- which, frankly, would have been the same</p> <p>6 board, more or less, as Homecoming Farm.</p> <p>7 Q. I see.</p> <p>8 A. So we may serve two different corporate</p> <p>9 entities.</p> <p>10 Q. Would it include people beyond</p> <p>11 veterinarians?</p> <p>12 A. Yes, as an administrative board member,</p> <p>13 yes.</p> <p>14 Q. And then the veterinarians would remain in</p> <p>15 an unofficial advisory capacity?</p> <p>16 A. Again, you're talking -- I see it as</p> <p>17 maintaining a corporate structure versus undertaking</p> <p>18 the work.</p> <p>19 Q. The advisers would undertake the work?</p> <p>20 A. Well, they would undertake, yes, the</p> <p>21 mission, exactly.</p> <p>22 Q. And the administrators would be the</p> <p>23 corporate structure.</p> <p>24 A. Yes.</p>
<p style="text-align: right;">408</p> <p>1 Q. Who actually would do that administering?</p> <p>2 A. Homecoming Farm would name board members.</p> <p>3 Q. And they would be separate from these</p> <p>4 advisory board members?</p> <p>5 A. Yes.</p> <p>6 Q. So for someone like Dr. Clayton, which one</p> <p>7 would she be on?</p> <p>8 A. Well, going to the time that I was involved</p> <p>9 with my organizing committee, Dr. Clayton would be</p> <p>10 on the board that say had continued to administer</p> <p>11 the program.</p> <p>12 Q. She would be actually administering the</p> <p>13 program.</p> <p>14 A. Yeah, well, someone from -- it would be</p> <p>15 veterinarians who would be overseeing -- let's say</p> <p>16 make sure that the residencies would be in</p> <p>17 accordance with our guidelines, that the curriculum</p> <p>18 would be in accordance with our guidelines, things</p> <p>19 like that.</p> <p>20 Q. But the Homecoming Farm board would have</p> <p>21 the final say over that board; is that correct?</p> <p>22 A. The board that Homecoming Farm would</p> <p>23 appoint to the new corporation would, yes.</p> <p>24 Q. And that's one way to have final say. If</p>	<p style="text-align: right;">410</p> <p>1 Q. Is this memorialized in writing anywhere,</p> <p>2 that you know of?</p> <p>3 A. I would need to review all the documents</p> <p>4 that I've submitted.</p> <p>5 Q. Sitting here today, do you know of any</p> <p>6 documents that were -- on which this plan appears?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Let me ask you this: You're aware of an</p> <p>9 organization called the American College of</p> <p>10 Veterinary Surgeons; correct?</p> <p>11 A. Yes.</p> <p>12 Q. And they've at one time or another accused</p> <p>13 you of some species of trademark infringement.</p> <p>14 You're aware of that?</p> <p>15 A. Correct.</p> <p>16 Q. And you're aware that at one time or</p> <p>17 another they've accused my client of some species of</p> <p>18 trademark infringement; correct?</p> <p>19 A. Yes.</p> <p>20 Q. What if the college had been incorporated</p> <p>21 and the ACVS had been right, just hypothetically?</p> <p>22 Who would have made the decision about what to</p> <p>23 change the name to? Would that have been a decision</p> <p>24 by Homecoming Farm or a decision by the</p>

<p style="text-align: right;">411</p> <p>1 administrative board?</p> <p>2 A. You know, that's such an abstraction, and</p> <p>3 it's asking me for how I would -- I would get legal</p> <p>4 advice.</p> <p>5 Q. Fair enough. That's probably the right</p> <p>6 answer.</p> <p>7 Let me ask you to turn to Document 45</p> <p>8 now, Exhibit 45, and finish reviewing it, please.</p> <p>9 Q. Have you had a chance to look at this</p> <p>10 document?</p> <p>11 A. Yes.</p> <p>12 Q. Is this an email that you sent to Dr.</p> <p>13 Gillette?</p> <p>14 A. Yes.</p> <p>15 Q. When you said, "Thanks for letting me know</p> <p>16 what is going on" on July 1st, 2004, what were you</p> <p>17 referring to?</p> <p>18 A. I have no idea.</p> <p>19 Q. Did Dr. Gillette....</p> <p>20 I'm going to show you a different</p> <p>21 document and ask you to authenticate it.</p> <p>22 (Exhibit 46, handwritten document,</p> <p>23 marked for identification.)</p> <p>24 Q. Have you had a chance to look at this</p>	<p style="text-align: right;">413</p> <p>1 (Exhibit 47, email, marked for</p> <p>2 identification.)</p> <p>3 Q. Have you had a chance to look at this?</p> <p>4 A. Yes.</p> <p>5 Q. And is this an email that you recall</p> <p>6 receiving?</p> <p>7 A. Yes.</p> <p>8 Q. And it refers to some issue with some</p> <p>9 people in Cape Cod; correct?</p> <p>10 A. Yes.</p> <p>11 Q. And did you know by this he was referring</p> <p>12 to Ms. Asack and Ms. Erickson?</p> <p>13 A. I believed that, but I didn't know.</p> <p>14 Q. And he also in this email requests some</p> <p>15 credentials; correct?</p> <p>16 A. Yes.</p> <p>17 Q. And do you believe that Exhibit 46 may have</p> <p>18 been a response to that request? It was the one we</p> <p>19 just looked at with your handwriting on it.</p> <p>20 A. Yes. I want to read specifically what he's</p> <p>21 asking me to provide.</p> <p>22 No, that would not have been a response</p> <p>23 to that, because this doesn't specifically ask for</p> <p>24 my state licenses, and I do recall him asking me to</p>
<p style="text-align: right;">412</p> <p>1 document?</p> <p>2 A. Yes.</p> <p>3 Q. Is this your handwriting?</p> <p>4 A. Yes.</p> <p>5 Q. Is this a document you sent?</p> <p>6 A. Yes.</p> <p>7 Q. On or about July 2nd, 2004?</p> <p>8 A. Yes.</p> <p>9 Q. And are the attachments something you sent</p> <p>10 as well?</p> <p>11 A. Yes.</p> <p>12 Q. And this looks like it was sent from</p> <p>13 Brockton, but using an envelope picked up in your</p> <p>14 travels; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know, in or about July 2nd, 2004,</p> <p>17 did Dr. Gillette ask you to send in documents</p> <p>18 regarding your qualifications?</p> <p>19 A. He specifically asked me to send him copies</p> <p>20 of my licenses and my veterinary degree.</p> <p>21 Q. Did he send you an email?</p> <p>22 A. I don't recall.</p> <p>23 Q. I show you another document, dated July</p> <p>24 2nd, 2004.</p>	<p style="text-align: right;">414</p> <p>1 provide those, and I don't see it here. So I</p> <p>2 believe that this was in response to a different</p> <p>3 communication.</p> <p>4 Q. Are you aware that sometime after this</p> <p>5 date, in or around July, early July, 2004, that Dr.</p> <p>6 Gillette was sent letters by Jane Hutton, Marc</p> <p>7 Paulhus --</p> <p>8 A. Yes.</p> <p>9 Q. -- and June Gilch? Are you aware that they</p> <p>10 had communicated with him around this time?</p> <p>11 A. Yes.</p> <p>12 Q. And that they were communicating to him for</p> <p>13 the purpose of explaining their involvement with</p> <p>14 your work?</p> <p>15 A. Yes.</p> <p>16 Q. Did you ask them to contact Dr. Gillette?</p> <p>17 A. Yes.</p> <p>18 Q. And for what purpose did you ask them to do</p> <p>19 that?</p> <p>20 A. Because he asked me for that.</p> <p>21 Q. And this was part of his series of requests</p> <p>22 for credentials at the time?</p> <p>23 A. Well, it was his request for information</p> <p>24 about Homecoming Farm.</p>

<p style="text-align: right;">415</p> <p>1 Q. Let me do another document. I think this</p> <p>2 is going to be 48.</p> <p>3 (Exhibit 48, email, marked for</p> <p>4 identification.)</p> <p>5 MR. LYONS: I've got 10 minutes to 5:00.</p> <p>6 MR. KLUFT: I think I have more than ten</p> <p>7 minutes. We only started at 10:00. I'm going as</p> <p>8 fast as I can.</p> <p>9 MR. LYONS: That doesn't mean we have to</p> <p>10 stay here all night. How much time do you have?</p> <p>11 Normally we're done by 4:00 o'clock.</p> <p>12 MR. KLUFT: You see what I've got here,</p> <p>13 and I've been moving very fast.</p> <p>14 MR. LYONS: Only four or five?</p> <p>15 MR. KLUFT: I don't think I'm going to</p> <p>16 use all of them. I've been weeding out as I go.</p> <p>17 MR. LYONS: I understand. 5 past 5:00</p> <p>18 is different than 5 past 6:00.</p> <p>19 MR. KLUFT: I have a few questions, but</p> <p>20 I'm moving very fast. And I think I can get through</p> <p>21 certain things.</p> <p>22 MR. LYONS: I just ask you to</p> <p>23 prioritize, given the late hour.</p> <p>24 MR. KLUFT: I completely understand.</p>	<p style="text-align: right;">417</p> <p>1 this email, which has been marked as Exhibit 48?</p> <p>2 A. I remember seeing this in your document</p> <p>3 production, and I do remember that Lauren was</p> <p>4 communicating with Dr. Gillette when I was unable to</p> <p>5 have email, yes.</p> <p>6 Q. And did she have your authority to</p> <p>7 communicate with Dr. Gillette?</p> <p>8 A. Yes, she did.</p> <p>9 Q. Let me move on to the next. Do you recall</p> <p>10 in September of 2004 receiving an email from Dr.</p> <p>11 Gillette to either Betsy Erickson or Asack, which</p> <p>12 answered a series of questions?</p> <p>13 A. I remember seeing that in the production of</p> <p>14 documents.</p> <p>15 Q. And is it your contention you did not</p> <p>16 receive that at the time?</p> <p>17 A. Yes.</p> <p>18 Q. I'm sorry?</p> <p>19 A. I don't recall receiving it at the time.</p> <p>20 Q. Do you know that you didn't receive it at</p> <p>21 the time?</p> <p>22 A. I don't recall.</p> <p>23 Q. Then I'll move through that and I will not</p> <p>24 mark it.</p>
<p style="text-align: right;">416</p> <p>1 Q. Dr. Lyons, do you keep an electronic</p> <p>2 datebook?</p> <p>3 MR. LYONS: At what point in time?</p> <p>4 MR. KLUFT: Currently.</p> <p>5 Q. Like an Outlook, Microsoft Word calendar,</p> <p>6 something like that?</p> <p>7 A. Yes.</p> <p>8 Q. You have an iPad. Do you use the calendar</p> <p>9 feature on the iPad?</p> <p>10 A. No.</p> <p>11 Q. Did you ever have an electronic calendar</p> <p>12 for your appointments?</p> <p>13 A. I don't believe so.</p> <p>14 Q. Did you ever have a paper calendar for your</p> <p>15 appointments?</p> <p>16 A. Yes, I would keep them in one of those</p> <p>17 yearly planners.</p> <p>18 Q. And do you still have those?</p> <p>19 A. No.</p> <p>20 Q. How far back do you have? I assume you</p> <p>21 have one for 2013 that's probably not relevant for</p> <p>22 this case. Do you have any for prior years?</p> <p>23 A. No.</p> <p>24 Q. Now, do you recall Lauren Kingston sending</p>	<p style="text-align: right;">418</p> <p>1 Now, at some point Asack and Erickson</p> <p>2 complained to the veterinary board about you; is</p> <p>3 that correct?</p> <p>4 A. Yes.</p> <p>5 Q. And there was a proceeding; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 MR. KLUFT: Off the record.</p> <p>9 (Discussion off the record.)</p> <p>10 (Exhibit 49, email, marked for</p> <p>11 identification.)</p> <p>12 (Exhibit 50, email, marked for</p> <p>13 identification.)</p> <p>14 (Exhibit 51, email, marked for</p> <p>15 identification.)</p> <p>16 Q. Here are the three documents marked. Have</p> <p>17 you had a chance to look at these documents?</p> <p>18 A. I have.</p> <p>19 Q. Are any of them emails that you sent?</p> <p>20 A. Well, let's go to No. 49.</p> <p>21 Q. Okay. Why don't we go to No. 49. Is this</p> <p>22 an email you sent?</p> <p>23 A. I don't know whether, with that email</p> <p>24 heading on it for when it was sent. But this is not</p>

<p style="text-align: right;">419</p> <p>1 a genuine document.</p> <p>2 Q. When you say "this," are you referring to</p> <p>3 the email and the attachment?</p> <p>4 A. I believe that there's like cut-and-paste</p> <p>5 going on with what you're calling an attachment.</p> <p>6 Q. Let me ask you a question: Is the</p> <p>7 attachment a document produced by Homecoming Farm?</p> <p>8 A. No.</p> <p>9 Q. Is the email something sent by Homecoming</p> <p>10 Farm?</p> <p>11 A. Do you mean the words written under there?</p> <p>12 Q. I mean the first page of this document.</p> <p>13 Did you send an email to Betsy Erickson which said,</p> <p>14 "Another background document FYI"?</p> <p>15 A. I did not write "Another background</p> <p>16 document FYI" that I recall with anything that I</p> <p>17 sent to Betsy Erickson.</p> <p>18 Q. Do you know if Lauren Kingston or anyone</p> <p>19 else did so on your behalf?</p> <p>20 A. No.</p> <p>21 Q. You don't know, or you know that they did</p> <p>22 not?</p> <p>23 A. I know that they did not.</p> <p>24 Q. 50: Is this a document that you sent?</p>	<p style="text-align: right;">421</p> <p>1 MR. LYONS: I'm happy to tell you. It</p> <p>2 was in the Superior Court.</p> <p>3 Q. And was there a judgment in that case? Did</p> <p>4 it settle, or did the judge decide it?</p> <p>5 MR. LYONS: I'll say for the record that</p> <p>6 the case was resolved by mutual agreement. I think</p> <p>7 a judgment was part of it, but --</p> <p>8 MR. KLUFT: An agreed-upon judgment?</p> <p>9 MR. LYONS: Exactly.</p> <p>10 Q. Did that involve the payment of money from</p> <p>11 them to you?</p> <p>12 A. No.</p> <p>13 Q. Now, are you aware that in 2009 both of</p> <p>14 them sent letters to Dr. Gillette?</p> <p>15 A. Yes.</p> <p>16 Q. And was that part of the agreed settlement,</p> <p>17 that they send those letters?</p> <p>18 A. Yes.</p> <p>19 Q. Did you review the letters before they were</p> <p>20 sent?</p> <p>21 A. Yes, I believe so.</p> <p>22 Q. Well, if it wasn't you, it was your</p> <p>23 attorney review --</p> <p>24 A. Yes.</p>
<p style="text-align: right;">420</p> <p>1 A. This too is not a genuine copy of an email</p> <p>2 that I sent.</p> <p>3 Q. And what about 51?</p> <p>4 A. This is not a genuine document.</p> <p>5 Q. Okay. Let's put them aside. That's all I</p> <p>6 wanted to know.</p> <p>7 Now, you -- at some point the veterinary</p> <p>8 board matter you prevailed in; correct?</p> <p>9 A. Yes.</p> <p>10 Q. And subsequent to that, did you have any</p> <p>11 contact or did you or your attorneys have any</p> <p>12 contact with Ms. Erickson or Ms. Asack?</p> <p>13 A. Subsequent to the veterinary board? No.</p> <p>14 Q. During the time the veterinary board matter</p> <p>15 was going on, did you have contact?</p> <p>16 Let me cut to the chase. Did you ever</p> <p>17 threaten to sue them?</p> <p>18 A. I did sue them.</p> <p>19 Q. You did sue them. And in what court was</p> <p>20 that?</p> <p>21 A. In Brockton.</p> <p>22 Q. And was that matter in the District Court</p> <p>23 or the Superior Court, if you know?</p> <p>24 A. I don't know.</p>	<p style="text-align: right;">422</p> <p>1 Q. What was the purpose of you having them</p> <p>2 sent?</p> <p>3 A. Because they had made false and defamatory</p> <p>4 statements about me. They had altered emails and</p> <p>5 forwarded them. They created documents and made it</p> <p>6 appear as if I had created them and distributed</p> <p>7 them. So in exchange for not having to pay me a</p> <p>8 large sum of money, they had to write letters to let</p> <p>9 Dr. Gillette know that what they had said to him was</p> <p>10 in fact not true.</p> <p>11 Q. Was there any other part of the settlement?</p> <p>12 A. No.</p> <p>13 Q. They didn't give you anything else but the</p> <p>14 letters?</p> <p>15 A. No.</p> <p>16 Q. Did they write to anybody else any other</p> <p>17 letters?</p> <p>18 A. No.</p> <p>19 Q. I just want you -- just two more things,</p> <p>20 and then we're done. It's 5:00 o'clock now. These</p> <p>21 are -- I'm going to mark these as the next two</p> <p>22 exhibits. They're not one document.</p> <p>23 (Exhibit 52, Statement of damages,</p> <p>24 marked for identification.)</p>

<p style="text-align: right;">423</p> <p>1 (Exhibit 53, Statement, marked for 2 identification.) 3 Q. Do you recognize Exhibit 52? 4 A. Yes. But I'm not a lawyer, so I don't know 5 exactly what this represents. 6 Q. Well, I'll represent to you that this is 7 the type of document normally filed with a complaint 8 in the Superior Court, based on the Superior Court 9 rule that requires a statement of damages to be 10 filed with the complaint. And your lawyer can 11 correct me if I'm wrong about that. 12 But my real question is: Is the 13 statement here true, that you alleged that Asack and 14 Erickson damaged your personal and professional 15 reputation? 16 A. Yes. 17 Q. And is your statement here true that you 18 feel that because of their actions, you sustained 19 significant economic loss to your business? 20 A. Yes. 21 Q. And when you refer to your business here, 22 you're referring to your solo -- your 23 practitioner -- your veterinary practitioner? 24 A. Yes.</p>	<p style="text-align: right;">425</p> <p>1 three years because the lawsuit put a stop to it? 2 A. Yes, the lawsuit put a stop to it. 3 Q. There wasn't something else that put a stop 4 to it, as far as you know? 5 A. No. 6 Q. That really was my question. And she 7 contacted a lot of people -- she contacted clients 8 of yours? 9 A. Yes. 10 Q. Did she contact advisory board members of 11 Homecoming Farm? It doesn't say that here. 12 A. No, not advisory, no. 13 Q. But clients -- she contacted veterinary 14 boards and colleagues? 15 A. Yes. 16 Q. She reported you to the Massachusetts AG 17 and the IRS; is that correct? 18 A. Yes. 19 Q. And she also contacted the university in 20 England. What does that refer to? Is that the name 21 of an institution? 22 A. It was a university where I was lecturing. 23 And this is when she was at her most prolific in 24 trying to harm me. I went to do my lecture at the</p>
<p style="text-align: right;">424</p> <p>1 Q. Not Homecoming Farm. 2 A. That's correct. 3 Q. Can Homecoming Farm sue Asack and Erickson? 4 A. No. 5 Q. It was just you. 6 A. Yes. 7 Q. And if you look at the next document, 53, 8 can you tell me what this is? 9 A. When you say "what this is" -- 10 Q. Did you draft this? 11 A. Yes. 12 Q. Is this more or less an accurate summary of 13 at least some of the things Ms. Asack did to you 14 during a three-year period? 15 A. Yes. 16 Q. Do you recall approximately what that 17 three-year period was? 18 A. 2003 to '6. 19 Q. And did that end with the lawsuit? In 20 other words, the harassment stopped once you sued 21 her; is that correct? 22 MR. LYONS: Do you mean is Ms. Azack 23 sending her Christmas cards now? 24 Q. It's a three-year period. Was it only</p>	<p style="text-align: right;">426</p> <p>1 university. There was a lot of security to get into 2 the lecture. And so I lectured for a couple of 3 hours, and it was only that they revealed to me that 4 they had received such crazy complaints from this 5 woman, that I was scheduled to lecture and she was 6 insisting that they cancel the lecture, and when 7 they said that they were not planning to do that, 8 she was so erratic that they had to actually hire 9 extra security for the event. 10 Q. Let me ask you: Are you aware, sitting 11 here today -- and I'm wrapping up, so I'm going to 12 change the subject on you quickly. Are you aware, 13 sitting here today, of any foundation that you 14 applied for that, instead of giving money to you, 15 gave money to the college that Dr. Gillette's 16 involved in? 17 A. Well, that's actually a good question. As 18 I've said before, I've not yet had a chance to 19 review every one of your 15,000 documents in detail. 20 But I have not seen the financials produced by 21 ACVSMR. 22 Q. And I promise you, every single one of my 23 questions I will say for the record is premised on 24 the assumption that you haven't read 15,000</p>

<p style="text-align: right;">427</p> <p>1 documents.</p> <p>2 A. Okay.</p> <p>3 Q. But let me ask you: Sitting here today,</p> <p>4 are you aware of any corporate sponsor that you</p> <p>5 approached but did not give money to you that gave</p> <p>6 money to Dr. Gillette's organization, the college,</p> <p>7 incorporated college, instead?</p> <p>8 A. Again, I don't know what sponsors have</p> <p>9 chosen to sponsor his programs, so --</p> <p>10 Q. Sitting here today, do you know if he has</p> <p>11 any -- whether or not?</p> <p>12 A. I don't know anything about Dr. Gillette's</p> <p>13 sponsorships or financials.</p> <p>14 Q. I want to just go back, so I understand, as</p> <p>15 sort of a final question: If you -- is part of the</p> <p>16 harm that you suffered as a result of my client's</p> <p>17 actions that you could not form your own specialty</p> <p>18 board because that market had been essentially</p> <p>19 captured because there was only room for one? Am I</p> <p>20 accurately assessing that part of your claim? And</p> <p>21 if I'm not, tell me I'm not.</p> <p>22 A. No, that's not something that would -- no,</p> <p>23 that's not how I would say it.</p> <p>24 Q. How would you phrase the harm to Homecoming</p>	<p style="text-align: right;">429</p> <p>1 of Veterinary Sports Medicine and Rehabilitation has</p> <p>2 done all over the world, simply by usurping our</p> <p>3 registered trademark and essentially taking</p> <p>4 advantage of the brand that I created, that that has</p> <p>5 damaged -- that's damaged our standing globally.</p> <p>6 Q. I have one more question. You've talked a</p> <p>7 lot about the event in Philadelphia, and I haven't</p> <p>8 asked you much about it today.</p> <p>9 A. Okay.</p> <p>10 Q. But I want to give you the chance, if</p> <p>11 there's anything about that meeting that you</p> <p>12 remember that you haven't talked about over the last</p> <p>13 two days, I want to give you the chance to tell me.</p> <p>14 And specifically, I'm curious to know,</p> <p>15 when you told them not to use your intellectual</p> <p>16 property --</p> <p>17 A. Yes.</p> <p>18 Q. -- when you were sort of on your way out, I</p> <p>19 guess, as you described it --</p> <p>20 A. Yes.</p> <p>21 Q. -- what specifically do you recall saying</p> <p>22 and what response did you get, if any?</p> <p>23 A. I said that they were not allowed to use</p> <p>24 any of the materials that I had produced for the</p>
<p style="text-align: right;">428</p> <p>1 Farm caused by my client's actions?</p> <p>2 A. Well, the harm to Homecoming Farm he is the</p> <p>3 harm to the ACVSMR project.</p> <p>4 Q. And what is that? I mean, what is the</p> <p>5 harm? I know what the project is.</p> <p>6 A. Yes.</p> <p>7 Q. After two days.</p> <p>8 A. The harm is in the infringement on our</p> <p>9 copyrighted documents; that Dr. Gillette's college</p> <p>10 has presented the illusion to the general public, to</p> <p>11 veterinarians, and to the AVMA that he and his</p> <p>12 organizing committee were the ones who created the</p> <p>13 compilations of methods, of facts, of techniques, of</p> <p>14 structure. He has presented the illusion that the</p> <p>15 description of how this specialty board will improve</p> <p>16 health and welfare both for the general public and</p> <p>17 improve the profession -- he's created the</p> <p>18 impression that that work product, that intellectual</p> <p>19 property, that I took -- what was it -- 15 years or</p> <p>20 20 years by that time to develop was actually his</p> <p>21 work product, when in fact he copied it.</p> <p>22 So the direct harm is in that, by taking</p> <p>23 credit for our work and by taking credit by</p> <p>24 association for everything that the American College</p>	<p style="text-align: right;">430</p> <p>1 committee, which amounted to the entire work product</p> <p>2 of the committee at the time, in substance -- that</p> <p>3 they could not use the name. And there was no</p> <p>4 response. I was just....</p> <p>5 Q. Is there anything else about that meeting</p> <p>6 that, sitting here today, you recall that you have</p> <p>7 not -- any words you've remembered from -- that</p> <p>8 either you said or someone else said, Dr. Taylor,</p> <p>9 Dr. Gillette, that you haven't testified to yet?</p> <p>10 A. After two long days, I can't remember what</p> <p>11 I've testified to. So since I can't recall what</p> <p>12 I've said in previous testimony, I don't know what</p> <p>13 might be unsaid.</p> <p>14 (Discussion off the record.)</p> <p>15 Q. Back on the record for one more question,</p> <p>16 which is: Do you have an understanding, sitting</p> <p>17 here today, as to what, if any, Dr. Gillette's</p> <p>18 motive would have been for telling any mistruths</p> <p>19 about you or the things you've done?</p> <p>20 A. Oh, yes.</p> <p>21 Q. And what is that?</p> <p>22 A. When I met privately with Dr. Gillette in</p> <p>23 Chicago and he let me know that he had received word</p> <p>24 from the AVMA that the liaison, Dr. Dee, would be</p>

<p style="text-align: right;">431</p> <p>1 attending -- by then he would have known that Dr.  2 Russell was not. And I asked him if he knew him,  3 and he said yes, he's canine. And I asked if he  4 knew about his practice, and he actually said that,  5 in his opinion, it wasn't a high-quality practice.  6 And so I said, well, what difference  7 does it make? He's the liaison. He's here to help  8 make sure that any questions we have about the  9 requirements from the AVMA's policies and procedures  10 get answered, so that, you know, we can make sure  11 that we're moving in the right direction.  12 So he said, well, yeah, but he's going  13 to expect to be made a member of the -- a chartered  14 diplomate. And I said, "That's fine, he can be a  15 chartered diplomate, but, you know, as long as he  16 passes the test. We all have to pass the test. So  17 as long as he passes the test and fulfills all the  18 other requirements for case reports and things like  19 that, then of course Dr. Dee can be a chartered  20 diplomate."  21 And he said, "Well, you know, no, you  22 know, he'd just expect to be given these  23 credentials." And if we can do that, then he'll  24 make it an easy ride, or whatever his words were --</p>	<p style="text-align: right;">433</p> <p>1 that was --  2 If this had come up in the room, if that  3 became a discussion at this organizing committee  4 member (sic), then I would have reminded everyone  5 that that was the condition upon which they agreed  6 to participate in the committee; and if they had  7 changed their mind, they could leave it.  8 Q. I'm sorry, you didn't have that  9 conversation with them, though. You're saying if  10 that had come up?  11 A. Exactly. So that was my position. So that  12 would certainly be one strong motivation, because,  13 as I understand it, you know, 27 veterinarians out  14 of 80,000 instantly got some of the most important  15 letters that can go after your name when you are in  16 business as a veterinary professional, which is  17 you're distinguished as a diplomate. The public,  18 the AVMA, colleagues, academic institutions,  19 publishers, journals, conferences, students, grant  20 makers, sponsors, upon seeing that you are in this  21 elite group of being a diplomate, especially being a  22 founding diplomate, a market opens up to you that is  23 unavailable to anyone without those credentials.  24 And the AVMA is promoting your elite</p>
<p style="text-align: right;">432</p> <p>1 he will facilitate the AVMA's approval for us.  2 So I said, you know, well, that's not  3 going to happen. The agreement that we had coming  4 into this, all of these organizing committee  5 members, is that there would be no grandfathering.  6 No one was going to just be handed their  7 credentials. And it doesn't matter that -- and as I  8 recall, the AVMA, in the language that I read,  9 almost made it sound like it was only under some  10 special circumstances that sometimes, you know, a  11 small number of organizing committee members may be  12 made chartered diplomates without having to sit for  13 an exam.  14 But I said, "The agreement in joining my  15 effort -- my committee was that right up front  16 everybody was going to sit for the exam." And so  17 Dr. Gillette said -- sort of looked down, and he  18 said, "Well, I don't think I can pass an exam."  19 So I believe that part of Dr. Gillette's  20 motivation for wanting me to no longer be on a  21 committee was that he wanted to give these  22 credentials out to the organizing committee members  23 without any requirement for sitting for an exam, and  24 he knew that that was a nonnegotiable point with me,</p>	<p style="text-align: right;">434</p> <p>1 status to its 80,000 members plus globally, and the  2 individuals immediately begin to market their  3 practices, market their businesses, market their  4 books and other publications, market their seminars,  5 market their lectures, market their veterinary  6 schools based on the fact that they have diplomates  7 and founding diplomates for a new specialty board.  8 I know that in veterinary schools  9 they're actually ranked -- surveys are done, and it  10 has to do with -- forgive me, I'm no economist. But  11 I remember seeing this -- I don't know if it was  12 rating veterinary schools. But one of the questions  13 is, "Just give us the number. What's the number of  14 board-certified faculty members that you have at  15 your institution?" And again, I can't remember the  16 context of that. I don't know whether it was for  17 grant funding. I don't know if it was that schools  18 are rated, you know, like the best school in the  19 country or something -- you know, one of those  20 things. But the point is that those credentials are  21 worth a lot of money. They are worth business  22 opportunities that cannot come to anyone. Anyone  23 without those credentials is frozen out of certain  24 markets.</p>

	435	437
1	So the opportunities that present once	1 CERTIFICATE OF COURT REPORTER
2	you have those credentials are through the roof.	2
3	And the fact that Dr. Gillette and his group felt	3
4	the need and felt that it was all right to give 27	4
5	veterinarians, as I understand it, based on the	5
6	document production, these credentials as a gift --	6
7	You know, I read some of the email	7 I, Alan H. Brock, Registered
8	exchanges between the committee members who were,	8 Professional Reporter, do certify that the
9	you know, preparing, putting the final touches on	9 deposition of Sheila Lyons, in the matter of Sheila
10	the petition and trying to meet deadlines and, you	10 Lyons, et al., vs. The American College of
11	know, trying to work across time zones. And they	11 Veterinary Sports Medicine and Rehabilitation, Inc.
12	would say, "We haven't heard from so and so for over	12 et al., on January 16, 2012, was stenographically
13	a year" -- no participation whatsoever. And what do	13 recorded by me; that the witness provided
14	you do? "Has anyone heard from this person? What	14 satisfactory evidence of identification, as
15	are we going to do?" -- with the members who haven't	15 prescribed by Executive Order 455 (03-13) issued by
16	even responded, to say, "Yeah, the petition looks	16 the Governor of the Commonwealth of Massachusetts,
17	good. It's going in on November 1st."	17 before being sworn by me, a Notary Public in and for
18	There are so-called organizing committee	18 the Commonwealth of Massachusetts; that the
19	members that didn't even respond to that, and yet	19 transcript produced by me is a true and accurate
20	they were given diplomate credentials.	20 record of the proceedings to the best of my ability;
21	Q. Are you finished with your answer?	21 that I am neither counsel for, related to, nor
22	A. I forget the question. It's late. I'm	22 employed by any of the parties to the above action;
23	sorry. It's been a long day.	23 and further that I am not a relative or employee of
24	Q. Thank you very much. I'm done.	24 thereto, nor financially or otherwise interested in
		the outcome of the action.
		Transcript review was requested of the reporter.
		January 18, 2013
		Alan H. Brock, RDR, CRR
	436	438
1	MR. KLUFT: Thank you, counsel, for your	WITNESS: SHEILA LYONS
2	patience. Thank you, Mr. Reporter.	CASE: Sheila Lyons, et al., vs. The American College of
3	(5:23 p.m.)	Veterinary Sports Medicine and Rehabilitation,
4		Inc. et al.
5		SIGNATURE PAGE/ERRATA SHEET
6		PAGE LINE CHANGE OR CORRECTION AND REASON
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		I have read the transcript of my deposition taken January 16,
		2012. Except for any corrections or changes noted above, I
		hereby subscribe to the transcript as an accurate record of the
		statements made by me.
		Signed under the pains and penalties of perjury.
		DATE
		Deponent, Sheila Lyons

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1 Sent via Courier to counsel/witness on January 18, 2012

2  
3 SHEILA LYONS

4 SIGNATURE PAGE/ERRATA SHEET INFORMATION

5 For deposition taken on: January 16, 2012

6 Sheila Lyons, et al., vs. The American College of Veterinary  
7 Sports Medicine and Rehabilitation, Inc. et al.  
8

9 SIGNATURE INFORMATION FOR COUNSEL

10 The original signature page/errata sheet has been sent to  
11 Stephen J. Lyons, Esq. to obtain signature from the deponent.  
12 When complete, please send original to J. Mark Dickison, Esq.  
13

14 WITNESS INSTRUCTIONS

15 After reading the transcript of your deposition, please note  
16 any change or correction and the reason on the errata/signature  
17 page. DO NOT make any notations on the transcript itself.  
18 If necessary, continue the format on a separate page.  
19

20 PLEASE SIGN AND DATE the errata/signature page (before a notary  
21 if requested) and return it to your counsel.  
22  
23  
24

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